



February 25, 2003

## SENATE BILL No. 490

DIGEST OF SB 490 (Updated February 20, 2003 11:34 AM - DI 44)

**Citations Affected:** IC 4-13; IC 4-23; IC 4-35; IC 5-15; IC 6-3.1; IC 10-7; IC 14-8; IC 14-9; IC 14-10; IC 14-11; IC 14-12; IC 14-20; IC 14-21.; IC 14-29; IC 14-34; IC 20-11; IC 23-14; noncode.

**Synopsis:** Department of Indiana heritage. Establishes the department of Indiana heritage under the direction of a commissioner appointed by the governor. Creates the Indiana heritage commission to act as an advisory board for the department of Indiana heritage. Provides that the department consists of: (1) the office of the commissioner; (2) the historic preservation and archeology division (currently the division of historic preservation and archeology under the department of natural resources); (3) the history division (combining the current Indiana historical bureau from the Indiana library and historical department, the current Indiana division from the state library, and the current section of historic sites of the division of state museums and historic sites from the department of natural resources); (4) the public records division (currently the commission on public records and the genealogy division of the state library); and (5) the Indiana state museum division (currently the section of museums of the division of state museums and historic sites under the department of natural resources). Renames the Indiana library and historical department as the Indiana library department and renames the Indiana library and historical board as the Indiana library board. Makes conforming amendments.

**Effective:** July 1, 2003; January 1, 2004.

---

---

### Merritt

---

---

January 21, 2003, read first time and referred to Committee on Finance.  
February 24, 2003, amended, reported favorably — Do Pass.

---

---

SB 490—LS 7630/DI 77+



C  
o  
p  
y

February 25, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## SENATE BILL No. 490

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 4-35 IS ADDED TO THE INDIANA CODE AS A
- 2 **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY
- 3 1, 2004]:
- 4 **ARTICLE 35. DEPARTMENT OF INDIANA HERITAGE**
- 5 **Chapter 1. Definitions**
- 6 **Sec. 1. "Agricultural purpose", for purposes of IC 4-35-5-9, has**
- 7 **the meaning set forth in IC 4-35-5-9.**
- 8 **Sec. 2. "Artifact", for purposes of IC 4-35-5, has the meaning set**
- 9 **forth in IC 4-35-5-2.**
- 10 **Sec. 3. "Burial ground", for purposes of IC 4-35-5, has the**
- 11 **meaning set forth in IC 4-35-5-3.**
- 12 **Sec. 4. "Burial object", for purposes of IC 4-35-5, has the**
- 13 **meaning set forth in IC 4-35-5-4.**
- 14 **Sec. 5. "Commission", for purposes of this article, refers to the**
- 15 **Indiana heritage commission established by IC 4-35-4-1.**
- 16 **Sec. 6. "Commissioner", for purposes of this article, refers to**
- 17 **the commissioner of the department of Indiana heritage appointed**

SB 490—LS 7630/DI 77+



C  
o  
p  
y

under IC 4-35-3-2.

Sec. 7. "Contributing property", for purposes of this article, means a site or structure that:

- (1) contributes materially to the significance of a historic property; or
- (2) would, if altered from its present condition or converted to a proposed use, have a material adverse effect on a historic property.

Sec. 8. "Department", for purposes of this article, refers to the department of Indiana heritage established by IC 4-35-2-1.

Sec. 9. (a) "Division", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-5.

(b) "Division", for purposes of IC 4-35-6, has the meaning set forth in IC 4-35-6-1.

Sec. 10. (a) "Heritage", for purposes of this article, means all past and present manifestations in Indiana of:

- (1) Indiana history and folklore;
- (2) Indiana architecture, engineering, landscape design, and planning;
- (3) physical features created or shaped by human hands that have value and meaning to the people of the state; and
- (4) surviving remains of prehistoric and historic cultures.

(b) The term includes manifestations that are:

- (1) tangible or intangible;
- (2) in handwritten, printed, audio-visual, oral, or electronic form;
- (3) designed and constructed or accrued over the passage of time; and
- (4) located above or below ground.

Sec. 11. "Historic property", for purposes of this article, means:

- (1) a historic site;
- (2) a historic structure; or
- (3) other personal or real property located on or in a historic site or historic structure.

Sec. 12. "Historic site", for purposes of this article, means a site that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the site.

Sec. 13. "Historic structure", for purposes of this article, means a structure that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial,

C  
o  
p  
y



or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the structure.

Sec. 14. "Human remains", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-6.

Sec. 15. "Interested party", for purposes of IC 4-35-5-34, has the meaning set forth in IC 4-35-5-34.

Sec. 16. "Person", for purposes of this article, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, or a governmental entity.

Sec. 17. "Plan", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-7.

Sec. 18. "Proceeding", for purposes of IC 4-35-5-34, has the meaning set forth in IC 4-21.5-1-13.

Sec. 19. "Review board", for purposes of this article, refers to the historic preservation review board established by IC 4-35-5-35.

Sec. 20. "Site", for purposes of this article, includes the following:

(1) An aboriginal mound, a fort, an earthwork, a village location, a burial ground, a ruin, a mine, a cave, a battleground, a shipwreck, or other similar location on land or under water.

(2) A location that contains or did contain a structure.

Sec. 21. "State action", for purposes of IC 4-35-5-34, has the meaning set forth in IC 4-35-5-34(c).

Sec. 22. "State college or university project", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-8.

Sec. 23. "State register", for purposes of this article, refers to the register of Indiana historic sites and historic structures established under IC 4-35-5.

Sec. 24. "Structure", for purposes of this article, means a manmade construction.

Sec. 25. "Subject property", for purposes of IC 4-35-5-34, has the meaning set forth in IC 4-35-5-34(d).

Sec. 26. "Substantial alteration", for purposes of IC 4-35-5-33, has the meaning set forth in IC 4-35-5-33(a).

## Chapter 2. Establishment of Department of Indiana Heritage; Indiana Heritage Fund

Sec. 1. The department of Indiana heritage is established.

Sec. 2. The department consists of the following:

(1) The office of the commissioner.



C  
O  
P  
Y

(2) The historic preservation and archeology division established by IC 4-35-5-10.

(3) The history division established by IC 4-35-6-2.

(4) The public records division created by IC 5-15-5.1-3.

(5) The Indiana state museum division established by IC 14-20-1.

(6) Other offices, divisions, and personnel necessary for the performance of the functions imposed upon the department.

**Sec. 3. The purpose of the department is to:**

(1) promote and facilitate the preservation, enhancement, enjoyment, and educational interpretation of the varied forms of Indiana heritage; and

(2) perform other educational functions.

**Sec. 4. (a)** The department may accept gifts, bequests, and devises of personal and real property for the maintenance, use, or benefit of the department or any of its divisions under terms and conditions and with obligations, liabilities, and burdens that the commissioner believes are in the best interest of the department.

**(b)** The department shall not assume any obligation, liability, or burden that exceeds appropriations made by law for the payment of such obligations, liabilities, and burdens.

**Sec. 5. (a)** The department of Indiana heritage fund is established as a dedicated fund to provide money for the department and its divisions to carry out their statutory duties. The fund shall be administered by the department.

**(b)** The fund consists of the following:

(1) Appropriations to the department and its divisions.

(2) Assets transferred to the department or a division of the department on July 1, 2003, under a statute providing for the transfer of all or part of the powers and duties of another agency to the department or a division of the department.

(3) The proceeds from the sale of items by a division of the department as directed by law or by the director of the division.

(4) Gifts of money or the proceeds from the sale of gifts donated to the department or a division of the department.

(5) Investment earnings from any part of the fund.

**(c)** The fund includes the following accounts, as established by the indicated statutes:

(1) The historic preservation and archeology division account established by IC 4-35-5-18.

(2) The historic sites account established by IC 4-35-6-13.



C  
O  
P  
Y

(3) The historical publications and educational account established by IC 4-35-6-18.

(4) The governor portraits account established by IC 4-35-6-31.

Subject to the approval of the budget agency, the department may establish additional accounts or combine existing accounts as necessary to carry out the duties of the department.

(d) Money remaining in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, its contents revert to the state general fund.

### Chapter 3. Office of the Commissioner of the Department

Sec. 1. The office of the commissioner of the department is established.

Sec. 2. (a) The governor shall appoint the commissioner, who serves at the pleasure of the governor. The commissioner is the executive and chief administrative officer of the department.

(b) The commissioner must have both of the following:

(1) A graduate degree in one (1) or more of the following subjects:

(A) Archeology or a closely related field.

(B) Museum studies, history, historic preservation, or a closely related discipline.

(C) Archives management or a closely related field.

(2) At least ten (10) years of professional experience in one (1) or more of the following disciplines:

(A) Historic preservation or archeology.

(B) Managing a historic site or museum.

(C) Information and forms management or archives management.

Sec. 3. The commissioner is entitled to compensation in an amount to be fixed by the budget agency with the approval of the governor.

Sec. 4. The commissioner may do the following:

(1) Appoint and remove the director of each division of the department.

(2) Delegate authority to appropriate department staff.

(3) Create other offices and divisions.

(4) Appoint advisory councils to consult and advise on the work of the department and its divisions.

Sec. 5. (a) The commissioner shall supervise the work of the department and of each of the divisions of the department.

(b) Subject to the approval of the governor, the commissioner

C  
o  
p  
y



1 may enter into contracts with the Indiana historical society under  
 2 which the society agrees to provide the department with services  
 3 or access to facilities, or both, in order to carry out the purposes of  
 4 this article.

5 Sec. 6. (a) Employees of each division, except the director, shall  
 6 be selected by the director of the division with the approval of the  
 7 commissioner and may be removed by the director for cause at any  
 8 time with the approval of the commissioner.

9 (b) The commission may adopt rules under IC 4-22-2  
 10 prescribing academic preparation and special training required for  
 11 employees of the department who hold certain positions.

12 (c) The commission may provide that appointments may be  
 13 made only after an applicant has successfully passed an  
 14 examination given by the commissioner or some person designated  
 15 by the commissioner.

16 (d) The commissioner, with the approval of the budget agency,  
 17 shall fix the compensation of the director of each division. The  
 18 director shall fix the compensation of the employees of the division  
 19 with the approval of the commissioner and the budget agency.

20 (e) An employee of the department may not directly or  
 21 indirectly solicit subscriptions or contributions for a political party  
 22 or political purpose, or be forced in any way to make a  
 23 contribution, or be required to participate in any form of political  
 24 activity.

25 (f) All department employees are covered under IC 4-15-2.

#### 26 Chapter 4. Indiana Heritage Commission

27 Sec. 1. The Indiana heritage commission is established. The  
 28 commission consists of eighteen (18) members as follows:

- 29 (1) The commissioner or the commissioner's designee.
- 30 (2) The director of the department of natural resources or the  
 31 director's designee.
- 32 (3) The director of the department of commerce or the  
 33 director's designee.
- 34 (4) The commissioner of the Indiana department of  
 35 transportation or the commissioner's designee.
- 36 (5) The state superintendent of public instruction or the  
 37 superintendent's designee.
- 38 (6) The secretary of state or the secretary of state's designee.
- 39 (7) The executive director of the Indiana war memorials  
 40 commission.
- 41 (8) The executive director of the Indiana arts commission.
- 42 (9) The director of the state library.



C  
O  
P  
Y

(10) The following three (3) individuals appointed by the commissioner:

(A) A member of the historic preservation review board established by IC 4-35-5-35.

(B) A member of the board of trustees of the state museum division established under IC 14-20-1-16.

(C) A member of the oversight committee on public records established by IC 5-15-5.1-18.

(11) Six (6) citizens appointed by the governor, not more than three (3) from the same political party.

Sec. 2. The governor may fill a vacancy in the ex officio membership of the commission by temporary appointment. However, the term of a member appointed under this section terminates upon the filling of the office.

Sec. 3. (a) The term of a citizen member of the commission is three (3) years, and a citizen member may not serve more than three (3) terms.

(b) The governor may remove a citizen member for cause.

(c) When a vacancy occurs in the citizen membership of the commission because of death, resignation, removal, or other cause, the governor shall appoint a person to fill the vacancy for the unexpired term.

Sec. 4. (a) The members of the commission who are not state employees are entitled to the minimum salary per diem as provided in IC 4-10-11-2.1 (b) for each day that the members are engaged in the official business of the commission.

(b) The members of the commission are entitled to reimbursement for travel, lodging, meals, and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 5. (a) The commissioner or the commissioner's designee shall serve as chairperson of the commission and shall preside at meetings.

(b) The commission members may select other officers as the commission determines.

Sec. 6. A majority of the members of the commission constitutes a quorum for the transaction of business, the exercise of powers, or the performance of duties.

Sec. 7. (a) The commission shall have at least four (4) regular meetings in each fiscal year and as many additional or special meetings as the commission's business, powers, or duties require.



C  
o  
p  
y



(b) The chairperson:

(1) may call a special meeting; and

(2) shall call a special meeting at the request of any five (5) members.

**Sec. 8. The commission shall advise the commissioner on:**

(1) the operation of the department;

(2) the execution of the department's mandates; and

(3) other issues the commissioner refers to the commission.

**Sec. 9. The commission may appoint administrative law judges.**

An administrative law judge is subject to IC 4-15-2. A person who is not appointed by the commission may not act as an administrative law judge for the commission. The commissioner may create a hearings division to assist in performing the functions of this section.

**Sec. 10. The commission is the ultimate authority of the department under IC 4-21.5.**

**Sec. 11. (a) The commission shall adopt rules under IC 4-22-2 to carry out the commission's duties under this article.**

**(b) Whenever the commissioner, the department, or any division of the department has the authority to adopt rules under IC 4-22-2, the commission shall exclusively exercise the authority.**

**Sec. 12. (a) The commission may issue a notice of violation to a person who violates a law administered by the department for which a misdemeanor or an infraction penalty is established. If the person:**

(1) receives the notice; and

(2) fails to abate the violation within fifteen (15) days after receiving the notice;

**the commission may impose a charge that does not exceed the maximum amount that may be assessed by a court for committing the violation.**

**(b) IC 4-21.5 applies to proceedings by the commission under this section. The department has the burden of proving the alleged violation by a preponderance of the evidence.**

**(c) A separate notice of violation may be issued or a separate charge imposed for each day a violation occurs.**

**(d) The person may establish as an affirmative defense the filing by a prosecuting attorney of a misdemeanor information or infraction complaint based on the same event as that upon which the notice of violation was based. The person has the burden of proving the affirmative defense.**

**(e) The remedy provided by this section is supplemental to other**



remedies.

**Chapter 5. Historic Preservation and Archeology Division**

**Sec. 1.** This chapter does not apply to the human remains of individuals who die after December 31, 1939.

**Sec. 2.** As used in this chapter, "artifact" means an object made or shaped by human workmanship before December 11, 1816.

**Sec. 3.** As used in this chapter, "burial ground" means ground in which human remains are buried. The term includes the land associated with or incidental to the burial of human remains.

**Sec. 4.** As used in this chapter, "burial object" means an item intentionally placed in a burial ground at or near the time of burial.

**Sec. 5.** As used in this chapter, "division" refers to the historic preservation and archeology division established by section 10 of this chapter.

**Sec. 6.** As used in this chapter, "human remains" means any part of the body of a human being in any:

- (1) stage of decomposition; or
- (2) state of preservation.

**Sec. 7. (a)** As used in this chapter, "plan" refers to:

- (1) an archeological plan, as described in subsection (b); or
- (2) a development plan, as described in subsection (c).

**(b)** As used in this chapter, "archeological plan" means a plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about the life and culture in past ages.

**(c)** As used in this chapter, "development plan" means a plan for the erection, alteration, or repair of any structure.

**Sec. 8.** As used in this chapter, "state college or university project" means a project of a state college or university that involves the construction, renovation, or demolition of one (1) or more buildings.

**Sec. 9. (a)** As used in this section, "agricultural purpose" includes farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, animal husbandry, and poultry husbandry.

**(b)** Sections 21, 22, 25, and 26 of this chapter do not apply to the following:

- (1) Surface coal mining regulated under IC 14-34.
- (2) Cemeteries and human remains subject to IC 23-14.
- (3) Disturbing the earth for an agricultural purpose.
- (4) Collecting an object other than human remains that is



C  
O  
P  
Y

1 visible in whole or in part on the surface of the ground,  
2 regardless of the time the object was made or shaped.

3 Sec. 10. The historic preservation and archeology division is  
4 established as a division within the department.

5 Sec. 11. The commissioner is designated as the state historic  
6 preservation officer.

7 Sec. 12. (a) The commissioner shall appoint a director to be the  
8 chief administrative officer of the division.

9 (b) The director must have:

10 (1) a graduate degree in historic preservation, archeology, or  
11 a closely related field; and

12 (2) at least three (3) years of professional experience in either  
13 historic preservation or archeology.

14 (c) The director may be removed by the commissioner at any  
15 time.

16 Sec. 13. The division shall be organized in a manner determined  
17 by the director of the division with the approval of the  
18 commissioner. The duties of the division established by law may be  
19 supplemented by the commissioner.

20 Sec. 14. The division shall do the following:

21 (1) Develop a program of historical, architectural, and  
22 archeological research and development, including continuing  
23 surveys, excavations, scientific recording, interpretation, and  
24 publication of the state's historical, architectural, and  
25 archeological resources.

26 (2) Prepare a preservation plan for the state that establishes  
27 planning guidelines to encourage the continuous maintenance  
28 and integrity of historic sites and historic structures.  
29 However, the plan is not effective until the plan is:

30 (A) presented to the review board for review and  
31 comment; and

32 (B) approved by the commission after public hearing.

33 (3) Undertake the action necessary to qualify the state for  
34 participation in sources of federal aid to further the purposes  
35 stated in subdivisions (1) and (2).

36 (4) Provide information on historic sites and structures within  
37 Indiana to federal, state, and local governmental agencies,  
38 private individuals, and organizations.

39 (5) Advise and coordinate the activities of local historic  
40 preservation commissions and other interested groups or  
41 persons.

42 (6) Provide technical and financial assistance to local historic

C  
O  
P  
Y



1 preservation commissions and other interested groups or  
2 persons.

3 (7) Review environmental impact statements as required by  
4 federal and state law for actions significantly affecting  
5 historic properties.

6 (8) Undertake a statewide survey to identify and document  
7 historic sites and historic structures.

8 (9) Prepare, establish, and maintain a state register of Indiana  
9 historic sites and historic structures and establish criteria for  
10 listing historic sites and historic structures on the register.

11 (10) Maintain the Indiana part of the National Register of  
12 Historic Places under 16 U.S.C. 470 et seq.

13 (11) Administer the federal Preservation Grants Program  
14 under 16 U.S.C. 470 et seq.

15 **Sec. 15. The division may do the following:**

16 (1) Recommend the purchase, lease, or gift of historic  
17 property of archeological importance and make  
18 recommendations to the commissioner regarding policies  
19 affecting the operation and administration of these sites and  
20 structures by the history division.

21 (2) Prepare and review planning and research studies relating  
22 to archeology.

23 (3) Conduct a program of education in archeology, either  
24 within the division or in conjunction with an institution of  
25 higher education.

26 (4) Inspect and supervise an archeological field investigation  
27 authorized by this chapter.

28 **Sec. 16. (a) The division may conduct a program to survey and**  
29 **register in a registry of Indiana cemeteries and burial grounds that**  
30 **the division establishes and maintains all cemeteries and burial**  
31 **grounds in each county in Indiana. The division may conduct the**  
32 **program alone or by entering into an agreement with one (1) or**  
33 **more of the following entities:**

34 (1) The Indiana Historical Society established under  
35 IC 23-6-3.

36 (2) A historical society (as defined in IC 20-5-17.5-1(a)).

37 (3) Historic Landmarks Foundation of Indiana.

38 (4) A professional archeologist or historian associated with a  
39 college or university.

40 (5) A township trustee.

41 (6) Any other entity that the division selects.

42 (b) This section may not be construed to authorize violation of



1 the confidentiality of information requirements of 16 U.S.C. 470(w)  
2 and 16 U.S.C. 470hh.

3 (c) The division may record in each county recorder's office the  
4 location of each cemetery and burial ground located in that county.

5 Sec. 17. (a) The division may accept gifts, bequests, and devises  
6 of personal and real property for the maintenance, use, or benefit  
7 of the division under such terms and conditions and with the  
8 obligations, liabilities, and burdens that the director and the  
9 commissioner believe are in the best interest of the division.

10 (b) The division may not assume any obligation, liability, or  
11 burden that exceeds appropriations made by law for the payment  
12 of such obligations, liabilities, and burdens.

13 Sec. 18. (a) The historic preservation and archeology division  
14 account is established within the department of Indiana heritage  
15 fund. Money in the account may be expended by the director  
16 exclusively for the maintenance, use, or benefit of the division.

17 (b) The account consists of the following:

18 (1) The proceeds from the sale of items as directed by law or  
19 by the director.

20 (2) Gifts of money and the proceeds from the sale of gifts  
21 donated to the account.

22 (3) Investment earnings from any part of the account.

23 (c) Money accruing in the account is appropriated continuously  
24 for purposes specified in subsection (a) but is subject to allotment  
25 by the budget agency.

26 (d) Money remaining in the account does not revert to any other  
27 account within the department of Indiana heritage fund at the end  
28 of a state fiscal year.

29 Sec. 19. Each state, county, township, city, town, judicial officer,  
30 or other public officer who has custody of, is capable of supplying,  
31 or is required to collect and compile information that may be  
32 required by the division shall supply the information promptly at  
33 the request of the division, whether the request is:

34 (1) oral;

35 (2) by letter or circular; or

36 (3) by forms provided to the officer to complete.

37 Sec. 20. (a) The historic preservation and archeology division  
38 established within the department of Indiana heritage is a  
39 continuation of the division of historic preservation and archeology  
40 of the department of natural resources.

41 (b) The rules adopted by the natural resources commission  
42 concerning the division of historic preservation and archeology of



the department of natural resources shall be treated, after December 31, 2003, as rules of the Indiana heritage commission.

(c) On January 1, 2004, all powers, duties, assets, appropriations, fund balances, and liabilities of the division of historic preservation and archeology of the department of natural resources are transferred to the historic preservation and archeology division of the department of Indiana heritage, established by this article, as the successor agency.

(d) On January 1, 2004, all powers, duties, assets, appropriations, fund balances, and liabilities of the department of natural resources that are attributable to the division of historic preservation and archeology are transferred to the department of Indiana heritage.

(e) After December 31, 2003, any reference in a statute or rule to:

(1) the department of natural resources in a statute or rule concerning the division of historic preservation and archeology shall be treated as a reference to the department of Indiana heritage;

(2) the division of historic preservation and archeology shall be treated as a reference to the historic preservation and archeology division; and

(3) the director of the department of natural resources in a statute or rule concerning the division of historic preservation and archeology shall be treated as a reference to the commissioner of the department of Indiana heritage.

Sec. 21. (a) The commission shall adopt rules under IC 4-22-2 establishing standards for plans.

(b) With respect to archeological plans, the rules must impose a standard of conduct that does the following:

(1) Promotes the scientific investigation and conservation of past cultures.

(2) Considers the interests and expertise of amateur archeologists and professional archeologists.

(c) With respect to development plans, the rules must impose a standard of conduct that preserves and protects both of the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity, as determined by the commission.

(d) Plans required under this chapter must be submitted to the

C  
O  
P  
Y



1 division for approval according to rules adopted by the  
2 commission.

3 Sec. 22. (a) Notwithstanding IC 23-14-44-1, this section does not  
4 apply to the following:

5 (1) A public utility (as defined in IC 8-1-2-1(a)).

6 (2) A corporation organized under IC 8-1-13.

7 (3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

8 (4) A surface coal mining and reclamation operation  
9 permitted under IC 14-34.

10 (b) A person may not disturb the ground for the purpose of  
11 discovering artifacts or burial objects:

12 (1) without having an archeological plan approved by the  
13 division under section 21 of this chapter (or the department of  
14 natural resources under prior law); or

15 (2) in violation of an archeological plan approved by the  
16 division under section 21 of this chapter (or the department of  
17 natural resources under prior law).

18 (c) Except as provided in this subsection and subsections (d) and  
19 (e), a person may not disturb the ground within one hundred (100)  
20 feet of a burial ground or cemetery to erect, alter, or repair any  
21 structure:

22 (1) without having a development plan approved by the  
23 division under section 21 of this chapter (or the department of  
24 natural resources under prior law); or

25 (2) in violation of a development plan approved by the  
26 division under section 21 of this chapter (or the department of  
27 natural resources under prior law).

28 (d) A person must submit and have a development plan  
29 approved by the division if a person intends to construct a new  
30 structure or alter or repair an existing structure that would  
31 significantly impact the burial ground or cemetery. The division  
32 must review the development plan not later than sixty (60) days  
33 after the development plan is submitted. However, a development  
34 plan is not required if a person intends only to erect, alter, or  
35 repair an existing structure for an incidental or existing use that  
36 would not affect the burial ground or cemetery.

37 (e) A development plan for a governmental entity to disturb  
38 ground within one hundred (100) feet of a burial ground or  
39 cemetery must be approved as follows:

40 (1) A development plan of a municipality requires approval of  
41 the executive of the municipality and does not require the  
42 approval of the division. However, if the burial ground or

C  
o  
p  
y



cemetery is located outside the municipality, approval is also required by the executive of the county where the burial ground or cemetery is located. A county cemetery commission established under IC 23-14-67-2 may advise the executive of the municipality on whether to approve a development plan.

(2) A development plan of a governmental entity other than:

(A) a municipality; or

(B) the state;

requires the approval of the executive of the county where the governmental entity is located and does not require the approval of the division. However, if the governmental entity is located in more than one (1) county, only the approval of the executive of the county where the burial ground or cemetery is located is required. A county cemetery commission established under IC 23-14-67-2 may advise the county executive on whether to approve a development plan.

(3) A development plan of the state requires the approval of the division.

(f) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Class D felony if the person disturbs buried human remains or grave markers while committing the offense.

Sec. 23. (a) A person who disturbs buried human remains shall do the following:

(1) Notify the division not later than two (2) business days after the time of the disturbance.

(2) Treat or rebury the human remains in a manner and place according to rules adopted by the commission or a court order and permit issued by the state department of health under IC 23-14-57.

(b) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

Sec. 24. Except as provided in sections 21 through 23 and section 31 of this chapter, a person who knowingly, without a permit, conducts a field investigation or alters historic property within the boundaries of property owned or leased by the state commits a Class A misdemeanor.

Sec. 25. A person who, with the intent to disturb ground to discover or remove artifacts, burial objects, grave markers, or human remains, disturbs buried human remains or grave markers either:

(1) without a plan approved by:



C  
o  
p  
y



(A) the division under section 21 of this chapter; or  
 (B) the department of natural resources under  
 IC 14-21-1-25 (before its repeal) or IC 14-3-3.4-14 (before  
 its repeal); or

(2) in violation of a plan described in subdivision (1);  
 commits a Class D felony.

**Sec. 26. (a)** A person who discovers an artifact or burial object  
 while disturbing the ground for a purpose other than the discovery  
 of artifacts or burial objects shall do the following:

(1) Immediately cease disturbing the ground.

(2) Notify the division not later than two (2) business days  
 after the time of the disturbance.

(b) After notification under subsection (a) the division may do  
 any of the following:

(1) Authorize the person to continue the ground disturbing  
 activity, with or without conditions.

(2) Require that continued ground disturbance activity be  
 conducted only in accordance with an approved plan.  
 However, this subdivision does not apply after thirty (30) days  
 from the date that the division receives notice.

**Sec. 27.** The division shall actively encourage all groups of  
 amateur archeologists to establish and maintain a code of ethics as  
 a minimum guide for the conduct of searches for evidence of life  
 and culture of past ages.

**Sec. 28. (a)** The commission shall adopt rules under IC 4-22-2 to  
 implement sections 21 through 27 of this chapter.

(b) When adopting rules under this section, the commission shall  
 consider the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human  
 remains with respect and dignity.

(3) The value of history and archeology as a guide to human  
 activity.

(4) The importance of amateur archeologists in making  
 historical, cultural, and archeological discoveries.

(5) The applicable laws, standards, and guidelines for the  
 conduct of archeology and the codes of ethics for participation  
 in archeology.

**Sec. 29. (a)** Any person may nominate a site or structure for  
 addition to or removal from the state register. Upon approval of  
 the nomination by the division, all affected persons shall be  
 notified.



C  
O  
P  
Y

1 (b) If an objection to the action is not filed with the division  
2 within thirty (30) days after the notification date, the nomination  
3 is automatically approved.

4 (c) If an objection is received within thirty (30) days after the  
5 notification date, a designated member of the review board shall  
6 hold a hearing and make a determination. The review board shall  
7 make the final decision regarding a nomination, subject to  
8 administrative review by the commission under IC 4-21.5.

9 Sec. 30. (a) This section does not apply to real property that is  
10 owned by a state educational institution (as defined in  
11 IC 20-12-0.5-1).

12 (b) The division shall periodically conduct a survey using the  
13 most current standard procedures for the survey of historic  
14 property. The survey must include:

- 15 (1) a determination of the existence, location, and description  
16 of each historic property owned by the state;
- 17 (2) the identification of the state agency that is responsible for  
18 managing, operating, or administering the historic property;  
19 and
- 20 (3) the assignment of a historic rating to each historic  
21 structure on historic property owned by the state using the  
22 most current standard procedures for the assignment of these  
23 ratings.

24 (c) Each state agency that is identified in the survey conducted  
25 under subsection (b) shall designate a historic preservation liaison  
26 officer to be responsible for:

- 27 (1) communications between the state agency and the division  
28 or other historic preservation organizations;
- 29 (2) notifying the division if the state agency receives approval  
30 from the budget committee to alter, demolish, or remove a  
31 historic site or historic structure owned by the state; and
- 32 (3) attending any education programs that may be conducted  
33 by the division to inform state agencies and their liaison  
34 officers of their responsibilities under this section.

35 (d) The Indiana department of administration shall notify the  
36 division of a proposed transfer of real property owned by the state  
37 at the earliest planning stage and not later than ninety (90) days  
38 before the date of the proposed transfer.

39 (e) The division shall inspect the property and notify the Indiana  
40 department of administration of the location of each historic site  
41 or historic structure on the property.

42 (f) Real property owned by the state may not be sold or



transferred until the division has stated in writing that the property does not, to the best of the division's knowledge, contain a historic site or historic structure.

(g) If the Indiana department of administration receives notice of a historic site or historic structure on the property, the Indiana department of administration shall reserve control of the appropriate historic property by means of a covenant or an easement contained in the transferring instrument.

(h) The history division of the department shall administer property subject to deed restrictions under subsection (g).

**Sec. 31. (a) A:**

(1) historic site or historic structure owned by the state; or

(2) historic site or historic structure listed on the state or national register;

may not be altered, demolished, or removed by a project funded, in whole or in part, by the state unless the review board has granted a certificate of approval.

(b) Notwithstanding subsection (a), if the division finds that an emergency exists in order to protect historic property that has been damaged by fire or a natural disaster in the interim between meetings of the review board, the division may approve routine maintenance, rebuilding, or reconstruction of the historic property without requiring a certificate of approval from the review board.

**(c) An application for a certificate of approval:**

(1) must be filed with the division not less than thirty (30) days before the meeting of the review board at which the application will be considered; and

(2) shall be granted or rejected by the review board after a public hearing.

(d) The review board may not grant a certificate of approval for demolition of a historic site or historic structure owned by the state unless it finds that the head of the state agency that wants to demolish the historic site or historic structure has first attempted to dispose of the property in accordance with IC 4-20.5-7 but has been unable to obtain the governor's approval to transfer the property under IC 4-20.5-7-2.

**Sec. 32. (a)** Section 31 of this chapter does not apply to real property that is owned by a state educational institution (as defined in IC 20-12-0.5-1).

(b) The commission for higher education and each state educational institution, in cooperation with the division, shall develop and continuously maintain a survey of historic sites and



1 historic structures owned by the state educational institution.  
 2 Historic sites and historic structures include buildings, structures,  
 3 outdoor sculptures, designed landscapes, gardens, archeological  
 4 sites, cemeteries, campus plans, and historic districts. A survey  
 5 developed under this subsection must conform with the Indiana  
 6 Historic Sites and Structures Survey Manual.

7 (c) The state historic preservation officer, not later than one (1)  
 8 year after receipt of a ten (10) year capital plan under subsection  
 9 (f) (or IC 14-21-1-18.5 before its repeal), shall:

10 (1) review a proposed state college or university project that  
 11 involves a historic site or historic structure owned by a state  
 12 educational institution; and

13 (2) submit an advisory report to the commission for higher  
 14 education, the state educational institution, and the general  
 15 assembly.

16 (d) Not more than thirty (30) days after a state college or  
 17 university, under section 33 of this chapter (or under  
 18 IC 14-21-1-18.6 before its repeal), submits to the division a  
 19 description of a proposed project that involves the substantial  
 20 alteration, demolition, or removal of a historic site or historic  
 21 structure, the state historic preservation officer shall:

22 (1) review the description of the proposed project; and

23 (2) submit to the state college or university an advisory report  
 24 concerning the proposed project.

25 (e) The state college or university shall review and consider the  
 26 advisory report before proceeding with the substantial alteration,  
 27 demolition, or removal of a historic site or historic structure.

28 (f) When submitting its biennial budget request, a state college  
 29 or university must:

30 (1) submit to the division a copy of any ten (10) year capital  
 31 plan of the college or university that is required by the budget  
 32 agency or the commission for higher education; and

33 (2) identify the projects included in the capital plan that may  
 34 involve the alteration or demolition of historic sites or historic  
 35 structures.

36 Sec. 33. (a) As used in this section, "substantial alteration"  
 37 means a conspicuous exterior material change in a historic site or  
 38 historic structure that, in the good faith judgment of a state college  
 39 or university, affects the historic character of the historic site or  
 40 historic structure.

41 (b) If a proposed project of a state college or university:

42 (1) involves the substantial alteration, demolition, or removal

C  
O  
P  
Y



of a historic site or historic structure; and  
 (2) is not identified in a capital plan submitted to the division under section 32 of this chapter (or IC 14-21-1-18.5 before its repeal);

the state college or university shall submit a description of the proposed project to the division and publish a notice describing the project one (1) time in a newspaper of general circulation in the county in which the proposed project is located. The submission of the description and the publication of the notice must occur at least thirty (30) days before the proposed project begins.

Sec. 34. (a) As used in this section, "interested party" means any of the following:

(1) The executive of the:

(A) city or town in which the subject property is located; or

(B) county in which the subject property is located, if the subject property is located in an unincorporated area.

(2) A historic preservation commission having jurisdiction over one (1) or more historic districts in the county in which the subject property is located.

(3) The owner of a historic property located not less than two thousand six hundred forty (2,640) feet from the subject property.

(4) An association, whether incorporated or unincorporated, that has as a purpose the preservation of historic, archeological, or cultural resources and that has not less than ten (10) members who are residents of the county in which the subject property is located.

(b) As used in this section, "proceeding" has the meaning set forth in IC 4-21.5-1-13.

(c) As used in this section, "state action" includes:

(1) comment, review, advice, consideration, approval, issuance, denial, or other action by the commission, the commissioner, the division, or the review board of a plan, permit, rule, nomination, certificate of approval, or determination; and

(2) the exercise of or the failure to perform a duty imposed on the commission, the commissioner, the division, or the review board by law or rule.

(d) As used in this section, "subject property" means a historic property or a contributing property that is the subject of a requested, required, authorized, or pending state action.



(e) An interested party may initiate and, with respect to a pending proceeding, has standing to participate in a proceeding by the commission, the commissioner, the division, or the review board that involves, may involve, or could involve state action concerning a subject property.

(f) An interested party has standing to obtain judicial review under IC 4-21.5-5 of a state action concerning a subject property.

(g) The commission, the commissioner, the division, and the review board may not take a state action concerning a subject property if the state action would result in a material adverse effect on a historic property or a contributing property. The division shall make the initial determination of the presence or absence of a material adverse effect, subject to review and final determination by the review board at the request of:

- (1) a person with a property interest in the subject property; or
- (2) an interested party.

Sec. 35. (a) The historic preservation review board is established.

(b) The review board consists of at least nine (9) members as follows:

- (1) The commissioner.
- (2) At least five (5) individuals meeting the minimum professional requirements established by the United States Secretary of the Interior under the National Historic Preservation Act and in effect on January 1, 2004.
- (3) Three (3) professionals, one (1) from each of the following disciplines:
  - (A) History.
  - (B) Prehistoric or historic archeology.
  - (C) Architecture or historical architecture.

(c) The commissioner shall, with the concurrence of the governor, appoint the members of the review board under subsection (b)(2) and (b)(3) for terms of three (3) years. The terms shall be staggered so that the terms of at least three (3) members expire each year. A member may be reappointed.

Sec. 36. (a) The commissioner is chairperson of the review board. The review board may select other officers that the review board determines necessary.

(b) The director of the division is a nonvoting adviser to the review board and is entitled to attend and participate in all meetings of the review board.



C  
o  
p  
y

(c) The director may appear before the review board at any public hearing and present evidence in support of or in opposition to granting an application for a certificate of approval or any other matter. Other persons may appear and present relevant evidence, but a person may not communicate with any member of the review board before a public hearing with intent to influence the member's action on a matter pending before the review board. Not less than five (5) days before a public hearing, the director may file with the review board a written statement setting forth any facts or opinions relating to the matter to be heard.

Sec. 37. (a) The commissioner and the review board shall carry out the duties imposed by this chapter in a manner that is consistent with the National Historic Preservation Act (16 U.S.C. 470 et seq.), as in effect on January 1, 2004, and the regulations promulgated by the United States Secretary of the Interior under that Act and in effect on January 1, 2004.

(b) The review board shall also advise the division and the department as requested by the commissioner.

Sec. 38. (a) Each member of the review board who is not a state employee is entitled to the minimum salary per diem as provided under IC 4-10-11-2.1 (b) for each day that the member is engaged in the official business of the committee. The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the review board who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 39. (a) The historic preservation review board established by this chapter is a continuation of the historic preservation review board established by IC 14-21-1 (before its repeal).

(b) After December 31, 2003, a reference to the historic preservation review board in a statute or law shall be treated as a reference to the historic preservation review board established by this chapter.

(c) After December 31, 2003, the register of Indiana historic sites and structures maintained by the historic preservation review



board under IC 14-21-1-15 (before its repeal) shall be maintained by the historic preservation review board under this chapter.

(d) A certificate of approval granted by the historic preservation review board under IC 14-21-1-18 (before its repeal) shall be treated after December 31, 2003, as a certificate of approval granted by the historic preservation review board under this chapter.

(e) A preservation plan for the state adopted by the historic preservation review board under IC 14-21-1-12 (before its repeal) shall be treated after December 31, 2003, as a plan adopted by the historic preservation review board under section 15(2) of this chapter.

#### **Chapter 6. History Division**

**Sec. 1.** As used in this chapter, "division" refers to the history division established by section 2 of this chapter.

**Sec. 2.** The history division is established as a division within the department.

**Sec. 3. (a)** The commissioner shall appoint a director to be the chief administrative officer of the division.

**(b)** The director must have:

- (1) a graduate degree in history or a closely related field; and
- (2) at least three (3) years of professional experience in history or closely related fields.

**(c)** The director may be removed by the commissioner at any time.

**Sec. 4.** The division shall be organized in a manner determined by the director of the division with the approval of the commissioner. The duties of the division established by law may be supplemented by the commissioner.

**Sec. 5.** The division shall administer and develop the programs and policies established by this chapter.

**Sec. 6.** The division shall do the following:

- (1) Establish standards and criteria for the acquisition of historic properties and for the preservation, restoration, administration, and operation of the sites and structures acquired.
- (2) Acquire by purchase, lease, or gift appropriate historic sites and historic structures.
- (3) Operate and administer those historic sites and historic structures owned or acquired by the state in accordance with this chapter.
- (4) Edit and publish documentary and other material relating



C  
o  
p  
y



to the history of the state of Indiana and promote the study of Indiana history.

(5) As appropriate, work with the Indiana historical society, the county historical societies, and any other person, agency, or organization concerned with Indiana history.

(6) Operate the historical marker program.

(7) Provide custody, care, and maintenance of the governor portraits collection.

Sec. 7. The division may do the following:

(1) Undertake the action necessary to qualify the state for participation in sources of federal aid to preserve historic property, materials, items, sites, and memorials.

(2) Compile and publish digests, reports, and bulletins of purely informational or statistical character on any question the commissioner considers to be of interest or value to the people of the state.

(3) Cooperate with any of the educational institutions of the state or with other institutions, organizations, or individuals to meet its responsibilities in any manner and to any extent approved by the review board.

(4) Provide information on historic property, materials, items, sites, and memorials within Indiana to federal, state, and local governmental agencies, private individuals, and organizations.

(5) Advise and coordinate the activities of local historical associations, historic commissions, and other interested groups or persons.

(6) Provide technical and financial assistance to local historical associations, historic commissions, and other interested groups or persons.

(7) Collect and preserve objects of scientific and cultural value representing past and present flora and fauna, the life and work of man, geological history, natural resources, the manufacturing arts, and fine arts.

Sec. 8. (a) The division may convey or lease property acquired under this chapter:

(1) back to the original owner of the property; or

(2) to any other person under a contractual arrangement that will limit the future use of the property and ensure the preservation of the property.

(b) A historic property that is:

(1) conveyed under this section; or



C  
o  
p  
y

(2) leased under this chapter;  
is subject to rights of access, public visitation, and other conditions  
of operation established by the division.

Sec. 9. (a) The division may negotiate and execute a lease of  
historic property under this section to:

- (1) a political subdivision;
- (2) a state agency;
- (3) a for-profit or nonprofit organization; or
- (4) any other person;

if the division determines that the lease is in the best interests of the  
citizens of Indiana.

(b) A lease of historic property executed under this section must  
set forth the following:

- (1) A description of the property subject to the lease.
- (2) The term of the lease.
- (3) A requirement that complete plans and specifications be  
submitted to the division for review and written approval  
before any construction begins on the property.
- (4) Terms of the payment of rent for the property.
- (5) A requirement that facilities on the property be available  
to the public without discrimination.
- (6) Terms of the disposition of:
  - (A) the property; and
  - (B) improvements on the property;
 at the termination of the lease.

(c) This section does not require that the property subject to a  
lease be surveyed.

(d) The term of a lease executed under this section may not  
exceed twenty-five (25) years. However, the lease may provide for  
the renewal of the lease at the option of the parties for one (1) or  
two (2) periods. A renewal period may not exceed ten (10) years.

Sec. 10. (a) This section applies to the negotiation and execution  
of a lease of historical property on which the division desires  
certain facilities to be provided. However, this section does not  
apply to a lease of historic property to:

- (1) a political subdivision; or
- (2) a state agency.

(b) The division shall prepare and publicize through  
appropriate media a statement of intent that does the following:

- (1) Describes the facilities that the division desires to be  
provided on the historic property.
- (2) Sets forth a procedure for the submission of proposals by



persons proposing to lease the historic property and provide the facilities.

(c) A statement of intent prepared under subsection (b) must appear in at least three (3) legal advertisements at ten (10) day intervals in at least five (5) daily newspapers of wide and general circulation in Indiana.

(d) During the sixty (60) days following the publication of the final legal advertisement under subsection (c), proposals may be submitted to the division in response to the statement of intent. The division shall do the following:

(1) Select from the proposals submitted the one (1) proposal that the division considers most appropriate for the fulfillment of the statement of intent.

(2) Submit the proposal to the commissioner and the commission for approval.

(e) If the proposal is approved in writing by the commissioner and the commission, the division may negotiate a lease agreement with the party that submitted the proposal. After a lease agreement is entered into and set forth in writing, the division shall submit the lease agreement to the attorney general for review. A lease agreement that is:

(1) negotiated;

(2) executed by the authorized agents of the state and the lessee; and

(3) approved by the attorney general;

under this section is a binding contract between the state and the lessee.

Sec. 11. The commission may adopt rules under IC 4-22-2 to implement sections 8 through 10 of this chapter.

Sec. 12. (a) The division may accept gifts, bequests, and devises of personal and real property for the maintenance, use, or benefit of the division under such terms and conditions and with the obligations, liabilities, and burdens that the director and the commissioner believe are in the best interest of the division.

(b) The division shall not assume any obligation, liability, or burden that exceeds appropriations made by law for the payment of such obligations, liabilities, and burdens.

Sec. 13. (a) The historic sites account is established within the department of Indiana heritage fund. Money in the account may be expended by the director exclusively for the maintenance, use, or benefit of historic sites operated or administered by the division.

(b) The account consists of the following:



(1) The proceeds from the sale of items as directed by law or by the director.

(2) Gifts of money and the proceeds from the sale of gifts donated to the account.

(3) Investment earnings from any part of the account.

(c) Money accruing in the account is appropriated continuously for purposes specified in subsection (a) but is subject to allotment by the budget agency.

(d) Money remaining in the account does not revert to any other account within the department of Indiana heritage fund at the end of a state fiscal year.

Sec. 14. Each state, county, township, city, town, judicial officer, or other public officer who has custody of, is capable of supplying, or is required to collect and compile information that may be required by the division shall supply the information promptly at the request of the division, whether the request is:

(1) oral;

(2) by letter or circular; or

(3) by forms provided to the officer to complete.

Sec. 15. (a) The history division is a continuation of:

(1) the Indiana historical bureau established under IC 4-23-7.2 (before its repeal) as a division of the Indiana library and historical department;

(2) the section of historic sites established under IC 14-20-1-8 (before its repeal) as a section of the division of state museums and historic sites of the department of natural resources; and

(3) the Indiana division established under IC 4-23-7.1 as a division of the Indiana state library.

(b) Any authority that the Indiana library and historical board had before January 1, 2004, to make rules concerning the Indiana historical bureau (before its repeal) or the Indiana division of the Indiana state library is transferred to the Indiana heritage commission. Any rules of the Indiana library and historical board that:

(1) concern the Indiana historical bureau or the Indiana division of the Indiana state library; and

(2) were filed with the secretary of state before January 1, 2004;

shall be treated after December 31, 2003, as though they had been adopted by the Indiana heritage commission.

(c) The rules adopted by the natural resources commission concerning the section of historic sites of the division of state



1 museums and historic sites of the department of natural resources  
2 shall be treated, after December 31, 2003, as rules of the Indiana  
3 heritage commission.

4 (d) On January 1, 2004, all powers, duties, assets,  
5 appropriations, fund balances, and liabilities of:

6 (1) the Indiana historical bureau established under  
7 IC 4-23-7.2 (before its repeal);

8 (2) the section of historic sites of the division of state museums  
9 and historic sites of the department of natural resources; and

10 (3) the Indiana division of the Indiana state library;

11 are transferred to the history division of the department of Indiana  
12 heritage as the successor agency.

13 (e) On January 1, 2004, all powers, duties, assets,  
14 appropriations, fund balances, and liabilities of the department of  
15 natural resources that are attributable to the section of historic  
16 sites of the division of state museums and historic sites are  
17 transferred to the department of Indiana heritage.

18 (f) On January 1, 2004, all powers, duties, assets,  
19 appropriations, fund balances, and liabilities of the:

20 (1) Indiana library and historical board; and

21 (2) Indiana library and historical department;

22 that are attributable to the Indiana historical bureau or the  
23 Indiana division of the Indiana state library are transferred to the  
24 department of Indiana heritage.

25 (g) After December 31, 2003, any reference to:

26 (1) the department of natural resources in a statute or rule  
27 concerning the section of historic sites of the division of state  
28 museums and historic sites shall be treated as a reference to  
29 the department of Indiana heritage;

30 (2) the section of historic sites in a statute or rule concerning  
31 the division of state museums and historic sites shall be  
32 treated as a reference to the history division;

33 (3) the director of the department of natural resources in a  
34 statute or rule concerning the section of historic sites of the  
35 division of state museums and historic sites shall be treated as  
36 a reference to the commissioner of the department of Indiana  
37 heritage;

38 (4) the Indiana historical bureau or the Indiana division of the  
39 Indiana state library in a statute or rule concerning the  
40 bureau or the division shall be treated as a reference to the  
41 history division;

42 (5) the Indiana library and historical board in a statute or

C  
o  
p  
y



rule concerning the Indiana historical bureau or the Indiana division of the Indiana state library shall be treated as a reference to the department of Indiana heritage; and (6) the Indiana library and historical department in a statute or rule concerning the Indiana historical bureau or the Indiana division of the Indiana state library shall be treated as a reference to the history division.

**Sec. 16.** All expenses incurred in the preparation, compilation, printing, binding, and publication of the volumes of source and other historical material issued by the division shall be defrayed from funds of the department or the division that are appropriated by law for that purpose.

**Sec. 17.** Historical publications issued by the division shall be printed by the public records division under the terms of a contract that the state executes and enters into for public printing and under the direction and supervision of the division.

**Sec. 18.** The division shall furnish one (1) copy of each publication it issues to each public library in Indiana. With the approval of the director, the division may furnish free copies to certain other persons, institutions, or departments. The division shall make remaining copies available for sale to the public at a price that shall be fixed by the director.

**Sec. 19. (a)** The historical publications and educational account is established within the department of Indiana heritage fund. Money in the account may be expended by the director of the division exclusively for the publication of:

- (1) historical documents; and
- (2) other material to:
  - (A) promote the study of Indiana history; and
  - (B) inform the people of Indiana concerning the history of their state.

**(b)** The account consists of the following items, which shall be deposited in the account:

- (1) Proceeds from the sale of:
  - (A) publications of the select committee on the centennial history of the Indiana general assembly; and
  - (B) other items as directed by law or by the director of the division.
- (2) Gifts of money and the proceeds from the sale of gifts donated to the account.
- (3) Investment earnings from any part of the account.
- (c) Money accruing to the historical publications and



C  
o  
p  
y

educational account is appropriated continuously for purposes specified in this section but is subject to allotment by the budget agency.

(d) Money remaining in the account does not revert to any other account within the department of Indiana heritage fund at the end of a state fiscal year.

Sec. 20. The division shall establish the Indiana historical marker program for marking historical sites in Indiana.

Sec. 21. (a) The division shall fix a state format for historical markers. The state format selected under this section may be the same as the state format established by the historical bureau under IC 4-23-7.2-11 (a) (before its repeal).

(b) Except as provided in section 25 of this chapter, a person may not erect a historical marker in the state format without the approval of the division.

(c) All historical markers in the state format shall be provided by the division (or by the historical bureau under IC 4-23-7.2-11 (a) before its repeal) using appropriated funds, local matching funds, donations, grants, or any other funds provided for that purpose according to the guidelines and rules of the historical marker program.

Sec. 22. The commissioner may appoint a historical marker advisory committee to serve without compensation. The committee may advise the director concerning the following:

- (1) Guidelines and rules for the historical marker program.
- (2) Appropriate sites to be marked.
- (3) Other matters concerning the historical marker program as requested by the director.

Sec. 23. Historical markers approved under this section become the property of the state. Maintenance of state historical markers is part of the historical marker program. The division may cooperate with individuals, local and state agencies, and private institutions and organizations for the maintenance of the historical markers. Funds made available to the historical marker program, as approved by the director, may be used for necessary maintenance.

Sec. 24. Except as provided in section 25 of this chapter, a historical marker may not be erected on a highway of the state highway system without the approval of the division as to the geographical and historical accuracy of the marker. This provision is in addition to any other requirement of law.

Sec. 25. Approval from the division is not required for historical



1 markers approved by the historical bureau under IC 4-23-7.2-11  
2 (before its repeal).

3 Sec. 26. The governor portraits collection is placed in the  
4 custody of the division. The collection shall be permanently  
5 displayed in public areas of the state capitol building under the  
6 supervision of the division, which is charged with the care and  
7 maintenance of the collection.

8 Sec. 27. The director shall inspect each painting in the collection  
9 annually in the company of one (1) or more experts in the field of  
10 art conservation selected by the director.

11 Sec. 28. After the inauguration of each governor, the director,  
12 with the concurrence of the governor and the commissioner, shall  
13 select and commission an artist to paint the governor's portrait.  
14 The portrait must be hung in the permanent collection immediately  
15 following the completion and acceptance of the portrait by the  
16 director and the governor.

17 Sec. 29. The division shall include in its budget requests for  
18 amounts it considers necessary to provide for the proper care,  
19 maintenance, and display of the governor portraits collection and  
20 amounts necessary for commissioning an oil portrait of each  
21 governor. The division may use appropriated funds or any other  
22 funds provided for these purposes.

23 Sec. 30. The director, in discharging the duties under this  
24 chapter, shall use the appropriate cultural and technical resources  
25 of the state, including the other divisions of the department and the  
26 Indiana department of administration.

27 Sec. 31. (a) The governor portraits account is established.  
28 Money in the account may be expended by the director of the  
29 division exclusively for the preservation and exhibition of the state  
30 owned portraits of former governors of Indiana.

31 (b) The governor portraits account consists of the following  
32 items, which shall be deposited in the account:

33 (1) Proceeds from the sale of items as directed by law or by  
34 the director of the division.

35 (2) Gifts of money and the proceeds from the sale of gifts  
36 donated to the account.

37 (3) Investment earnings from any part of the account.

38 (c) Money accruing to the governor portraits account is  
39 appropriated continuously for purposes specified in this section but  
40 is subject to allotment by the budget agency.

41 (d) Money remaining in the account does not revert to any other  
42 account within the department of Indiana heritage fund at the end

C  
o  
p  
y





of a state fiscal year.

Sec. 32. The division shall have custody of all unsold commemorative medallions and other items that were acquired for sale to the public by the Indiana historical commission, the Indiana sesquicentennial commission, or the Indiana American revolution bicentennial commission when that commission is abolished. These medallions and other commemorative items shall be offered for sale to the public at a price determined by the director of the division. The proceeds from the sale of the items shall be deposited in the governor portraits account.

Sec. 33. The division shall celebrate the memory of George Rogers Clark in a manner fitting each occasion of George Rogers Clark Day, every twenty-fifth day of February, established by IC 1-1-13-1.

SECTION 2. IC 4-23-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. There is hereby created and established a department of the state government which shall be known as the Indiana library and historical department.

SECTION 3. IC 4-23-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. The management and control of the Indiana library and historical department is hereby vested in a board which shall be known as the Indiana library and historical board, and which shall consist of five (5) members, who shall be appointed by the governor, as hereinafter provided. In the first instance, one (1) of such members shall be appointed for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and two (2) members for a term of four (4) years. Thereafter all members shall be appointed for terms of four (4) years. No person shall be appointed as a member of the Indiana library and historical board unless he the person is a citizen of high standing and probity and has a known and active interest in library or historical work. One (1) member of the library and historical board shall be appointed on recommendation of the state board of education, one (1) member shall be appointed on recommendation of the Indiana library, trustee association, one (1) member shall be appointed on recommendation of the Indiana library association, one (1) member shall be appointed on recommendation of the Indiana historical society, and one (1) member shall be selected and appointed by the governor. The members of the board shall serve without compensation, but shall be entitled to receive their actual expenses necessarily incurred in attending the meetings and transacting the business of the board, and in participating in such other activities as may be in the interest of the



C  
o  
p  
y

department. Any vacancy which may occur in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term, either on recommendation of the board, association or society hereinbefore authorized to make recommendations, or by selection by the governor, as hereinbefore provided. The board may prepare plans subject to the approval of the governor and advise with the proper officials in the construction of alterations and additions to the building and provide necessary equipment and furnishings within the appropriations of funds for these purposes. The board may receive and administer any state or federal aid which may become available for the improvement and development of library ~~and historical~~ services in Indiana.

SECTION 4. IC 4-23-7.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. As used in this chapter:

(1) "Advisory council" refers to the Indiana state library advisory council established by section 39 of this chapter.

(2) "Agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

(3) "Board" means the Indiana library ~~and historical~~ board established by IC 4-23-7-2.

(4) "Department" means the Indiana library ~~and historical~~ department established by IC 4-23-7-1.

(5) "Director" means director of the Indiana state library.

~~(6) "Historical bureau" means the Indiana historical bureau established by IC 4-23-7-3.~~

~~(7) (6) "Public library" has the meaning set forth in IC 20-14-1-2.~~

~~(8) (7) "State library" means the Indiana state library established by IC 4-23-7-3.~~

~~(9) (8) "Statewide library card program" refers to the program established by section 5.1 of this chapter.~~

SECTION 5. IC 4-23-7.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. The state library shall initiate or participate in plans or programs for ~~historical or~~ library development in Indiana that are considered appropriate by the Indiana library ~~and historical~~ board.

SECTION 6. IC 5-15-5.1-1, AS AMENDED BY P.L.1-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. As used in this chapter:

**"Commissioner" means the commissioner of the department of**



C  
o  
p  
y

**Indiana heritage appointed under IC 4-35-3-2.**

~~"Commission"~~ **"Division"** means the ~~commission on~~ public records **division** created by this chapter.

"Record" means all documentation of the informational, communicative or decisionmaking processes of state government, its agencies and subdivisions made or received by any agency of state government or its employees in connection with the transaction of public business or government functions, which documentation is created, received, retained, maintained, or filed by that agency or its successors as evidence of its activities or because of the informational value of the data in the documentation, and which is generated on:

- (1) paper or paper substitutes;
- (2) photographic or chemically based media;
- (3) magnetic or machine readable media; or
- (4) any other materials, regardless of form or characteristics.

"Nonrecord materials" means all identical copies of forms, records, reference books, and exhibit materials which are made, or acquired, and preserved solely for reference use, exhibition purposes, or publication and which are not included within the definition of record.

"Personal records" means:

- (1) all documentary materials of a private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of a public official, including: diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or utilized for, or circulated or communicated in the course of, transacting government business; or
- (2) materials relating to private political associations, and having no relation to or effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of a public official and are not deemed public records.

"Form" means every piece of paper, transparent plate, or film containing information, printed, generated, or reproduced by whatever means, with blank spaces left for the entry of additional information to be used in any transaction involving the state.

"Agency" means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government established by the constitution, law, or by executive or legislative order.

"Public official" means an individual holding a state office created by the Constitution of Indiana, by act or resolution of the general

C  
o  
p  
y



assembly, or by the governor; all officers of the executive and administrative branch of state government; and all other officers, heads, presidents, or chairmen of agencies of state government.

"Indiana state archives" means the program maintained by the ~~commission~~ **division** for the preservation of those records and other government papers that have been determined by the commission to have sufficient permanent values to warrant their continued preservation by the state.

"Forms management" means the program maintained by the ~~commission~~ **department of administration** to provide continuity of forms design procedures from the form's origin up to its completion as a record by determining the form's size, style and size of type; format; type of construction; number of plies; quality, weight and type of paper and carbon; and by determining the use of the form for data entry as well as the distribution.

"Information management" means the program maintained by the ~~commission~~ **division** for the application of management techniques to the purchase, creation, utilization, maintenance, retention, preservation, and disposal of forms and records undertaken to improve efficiency and reduce costs of recordkeeping; including management of filing and microfilming equipment and supplies, filing and information retrieval systems, files, correspondence, reports and forms management, historical documentation, micrographic retention programming, and critical records protection.

"Records center" means a program maintained by the ~~commission~~ **division** primarily for the storage, processing, retrieving, servicing, and security of government records that must be retained for varying periods of time but should not be maintained in an agency's office equipment or space.

"Critical records" means records necessary to resume or continue governmental operations, the reestablishing of the legal and financial responsibilities of government in the state, or to protect and fulfill governmental obligations to the citizens of the state.

"Retention schedule" means a set of instructions prescribing how long, where, and in what form a record series shall be kept.

"Records series" means documents or records that are filed in a unified arrangement, and having similar physical characteristics or relating to a similar function or activity.

"Records coordinator" means a person designated by an agency to serve as an information liaison person between the agency and the ~~commission~~ **division**.

SECTION 7. IC 5-15-5.1-3 IS AMENDED TO READ AS



C  
O  
P  
Y

1 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3. ~~There is~~  
 2 ~~created the commission on~~ **The public records division is created**  
 3 **within the department of Indiana heritage established by**  
 4 **IC 4-35-2-1** to administer this chapter for the administrative and  
 5 executive branches of state government. ~~The commission~~ **division** shall  
 6 adopt a seal, which shall be the seal of the state of Indiana. The  
 7 ~~commission~~ **division** shall offer its services to the legislative and  
 8 judicial branches of state government.

9 SECTION 8. IC 5-15-5.1-4 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) The  
 11 ~~governor commissioner~~ shall appoint a director as the executive head  
 12 of the ~~commission~~ **division**. The director must:

13 **(1) have a graduate degree in history, archives management,**  
 14 **or a closely related field; and**

15 **(2) be versed in the principles of information and forms**  
 16 **management, archives, and the affairs and organization of state**  
 17 **government.**

18 The director shall serve a term of four (4) years. However, The director  
 19 may be removed for cause by the governor. It is the intent of the  
 20 general assembly that the director be a person who is qualified by  
 21 training and experience to administer the affairs of the commission and  
 22 that the director's tenure of office is limited only by the director's ability  
 23 and the proper performance of the director's duties. **The commissioner**  
 24 **may remove the director at any time.**

25 (b) The director, subject to the approval of ~~the governor, the~~  
 26 **commissioner** and the budget agency, shall appoint such staff as  
 27 necessary to implement this chapter. **Members of the staff are**  
 28 **employees of the department of Indiana heritage.**

29 (c) The salary of the director is subject to the approval of the  
 30 ~~governor commissioner~~ and the budget agency. Salaries of the staff are  
 31 subject to the approval of the state personnel department and the  
 32 budget agency. The provisions of IC 4-15-2 apply to the staff of the  
 33 ~~commission~~ **division**.

34 SECTION 9. IC 5-15-5.1-5 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. (a) Subject to  
 36 approval by the oversight committee on public records created by  
 37 section 18 of this chapter, the ~~commission~~ **department of**  
 38 **administration** shall do the following:

39 **(1) Establish a forms management program for state government**  
 40 **and approve the design, typography, format, logo, data sequence,**  
 41 **form analysis, form number, and agency file specifications of**  
 42 **each form.**



C  
o  
p  
y

(2) Establish a central state form numbering system and a central cross index filing system of all state forms, and standardize, consolidate, and eliminate, wherever possible, forms used by state government.

(3) Approve, provide, and in the manner prescribed by IC 5-22, purchase photo-ready copy for all forms.

**(4) Establish and operate a distribution center for the receipt, storage, and distribution of all material printed for an agency.**

**(b) Subject to approval by the oversight committee on public records created by section 18 of this chapter, the division shall do the following:**

~~(4)~~ (1) Establish a statewide records management program, prescribing the standards and procedures for record making and record keeping; however, the investigative and criminal history records of the state police department are exempted from this requirement.

~~(5)~~ (2) Coordinate utilization of all micrographics equipment in state government.

~~(6)~~ Assist the Indiana department of administration in coordinating utilization of all duplicating and printing equipment in the executive and administrative branches.

~~(7)~~ (3) Advise the Indiana department of administration with respect to the purchase of all records storage equipment.

~~(8)~~ Establish and operate a distribution center for the receipt, storage, and distribution of all material printed for an agency.

~~(9)~~ (4) Establish and operate a statewide archival program to be called the Indiana state archives for the permanent government records of the state, provide consultant services for archival programs, conduct surveys, and provide training for records coordinators.

~~(10)~~ (5) Establish and operate a statewide record preservation laboratory.

~~(11)~~ (6) Prepare, develop, and implement record retention schedules.

~~(12)~~ (7) Establish and operate a central records center to be called the Indiana state records center, which shall accept all records transferred to it, provide secure storage and reference service for the same, and submit written notice to the applicable agency of intended destruction of records in accordance with approved retention schedules.

~~(13)~~ (8) Demand, from any person or organization or body who has illegal possession of original state or local government

C  
o  
p  
y



records, those records, which shall be delivered to the ~~commission~~ **division**.

~~(14)~~ **(9)** Have the authority to examine all forms and records housed or possessed by state agencies for the purpose of fulfilling the provisions of this chapter.

~~(15)~~ **(10)** In coordination with the ~~data processing state information technology~~ oversight commission created under IC 4-23-16, establish standards to ensure the preservation of adequate and permanent computerized and auxiliary automated information records of the agencies of state government.

~~(16)~~ **(11)** Notwithstanding IC 5-14-3-8, establish a schedule of fees for services provided to patrons of the Indiana state archives. A copying fee established under this subdivision may exceed the copying fee set forth in IC 5-14-3-8(c).

~~(b)~~ **(c)** In implementing a forms management program, the ~~commission~~ **department of administration** shall follow procedures and forms prescribed by the federal government.

~~(c)~~ **(d)** Fees collected under subsection ~~(a)~~~~(16)~~ **(b)(11)** shall be deposited in the state archives preservation and reproduction account established by section 5.3 of this chapter.

SECTION 10. IC 5-15-5.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. The ~~commission division~~ shall operate a central micrographics laboratory. The ~~oversight committee~~ **Indiana heritage commission** in coordination with the supreme court shall promulgate regulations concerning quality standards for microfilming documents that shall allow documents meeting those standards to be admissible in court. Such microfilming standards shall be followed by all agencies of the administrative and executive branches of state government.

SECTION 11. IC 5-15-5.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 10. Each agency shall:

(1) Make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency to protect the legal and financial rights of the government and of persons directly affected by the agency's activities.

(2) Cooperate fully with the ~~commission~~ **division** in implementing the provisions of this chapter.

(3) Establish and maintain an active and continuing program for the economical and efficient management of information and assist the ~~commission~~ **division** in the conduct of information

C  
o  
p  
y



management surveys.

(4) Implement information management procedures ~~and regulations in accordance with rules~~ issued by the **Indiana heritage commission**.

(5) Submit to the ~~oversight committee~~, **Indiana heritage commission** a recommended retention schedule for each form and record series in its custody. However, retention schedules for forms and record series common to more than one (1) agency may be established by the ~~oversight committee~~. **Indiana heritage commission**. Records may not be scheduled for retention any longer than is necessary to perform required functions. Records requiring retention for several years must be transferred to the records center.

(6) Establish necessary safeguards against the removal, alteration, or loss of records; safeguards shall include notification to all officials and employees of the agency that records in the custody of the agency may not be alienated or destroyed except in accordance with the provisions of this chapter.

(7) Designate an agency information coordinator, who shall assist the ~~commission~~ **department of administration** in the content requirements of the form design process and in the development of the agency's records retention schedules.

(8) Report to the ~~commission~~ **division** before December 31 of each year those records which have been created or discontinued in the past year.

SECTION 12. IC 5-15-5.1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 17. (a) A state, county, or other official may turn over to the ~~commission~~, **division**, in accordance with the rules of the **Indiana heritage commission** for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials not in current use in his office.

(b) Subject to subsection (c), the ~~commission~~ **division** may make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office for preservation in the state archives. County, city, and other officials shall permit such copies to be made of the books, records, documents, and papers in their respective offices.

(c) The ~~commission~~ **division** shall copy the official copy of the rules (including incorporated matters filed under IC 4-22-2-21) retained by the secretary of state under IC 4-5-1-2. Any duplicate original copy

C  
o  
p  
y





possessed by another agency is not a critical record and may not be copied. If the secretary of state prepares micrographic copies of these documents under IC 4-5-1-2 and the copies are in a form that meets the specifications of the ~~commission~~, **division**, the ~~commission~~ **division** shall arrange with the secretary of state to obtain the number of copies needed by the ~~commission~~, **division**, rather than copying the documents as part of a separate program.

SECTION 13. IC 5-15-5.1-18, AS AMENDED BY P.L.114-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 18. (a) The oversight committee on public records consists ex officio of:

- (1) the governor or ~~his~~ **the governor's** designee;
- (2) the secretary of state or ~~his~~ **the secretary's** designee;
- (3) the state examiner of the state board of accounts or ~~his~~ **the state examiner's** designee;
- (4) ~~the director of the state library;~~
- (5) ~~the director of the historical bureau;~~
- (6) ~~the director of the commission on public records;~~
- (7) (4) the commissioner of the **Indiana** department of administration or ~~his~~ **the commissioner's** designee;
- (8) (5) the public access counselor; and
- (9) (6) the ~~executive director of the data processing oversight commission~~ **commissioner** or the ~~executive director's~~ **commissioner's** designee.

(b) The oversight committee also consists of two (2) lay members appointed by the governor for a term of four (4) years. One (1) lay member shall be a professional journalist or be a member of an association related to journalism.

(c) The ~~oversight committee~~ **commissioner** shall ~~elect one (1) of its members to be chairman. The director of the commission on public records shall be the secretary of the committee.~~ **chair the committee.**

(d) The ex officio members of the oversight committee shall serve without compensation and shall receive no reimbursement for any expense which they may incur. Each lay member is entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency, and each lay member is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b).

SECTION 14. IC 5-15-5.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 19. (a) It is the duty of the ~~oversight committee~~ **Indiana heritage commission** to:

C  
o  
p  
y



(1) function as the policy making body for the ~~commission;~~  
**division;** and

(2) determine what records have no apparent official value but should be preserved for research or other purposes.

(b) The ~~oversight committee~~ **Indiana heritage commission** shall maintain a master list of all record series that are classified as confidential by statute or rule.

(c) The ~~oversight committee~~ **Indiana heritage commission** has final approval of all record retention schedules.

(d) The ~~oversight committee~~ **Indiana heritage commission** has final approval of a fee schedule established by the ~~commission~~ **division** under section ~~5(a)(16)~~ **5(b)(11)** of this chapter.

SECTION 15. IC 5-15-5.1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 20. (a) The ~~oversight committee~~ **Indiana heritage commission** shall:

(1) establish standards for safeguarding personal information systems that shall be followed by agencies maintaining such systems;

(2) approve the content of all forms that involve confidential records; and

(3) require use of archival quality paper for records that the ~~commission~~ **division** determines should be preserved indefinitely.

(b) The ~~oversight committee~~ **Indiana heritage commission** may adopt rules under IC 4-22-2 necessary for the performance of its duties, consistent with this chapter and other applicable Indiana laws.

SECTION 16. IC 6-3.1-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. The definitions set forth in:

(1) ~~IC 14-8-2~~ **IC 4-35-1** that apply to ~~IC 14-21-1~~; **IC 4-35-5**; and

(2) ~~IC 14-21-1~~; **IC 4-35-5**;

apply throughout this chapter.

SECTION 17. IC 6-3.1-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. As used in this chapter, "division" means the ~~division of~~ historic preservation and archaeology **division** of the department of ~~natural resources~~; **Indiana heritage**.

SECTION 18. IC 10-7-2-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 34. (a) The commission shall employ an individual who is responsible for the care and preservation of all personal property owned by the commission that has historic significance.

(b) The individual employed by the commission under subsection

C  
o  
p  
y



(a) must meet the qualifications set by the **Indiana state museum** division of state museums and historic sites of the department of ~~natural resources~~. **Indiana heritage.**

SECTION 19. IC 14-8-2-48.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 48.2. "Commissioner", for purposes of IC 14-20, refers to the commissioner of the department of Indiana heritage appointed under IC 4-35-3-2.**

SECTION 20. IC 14-8-2-61 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 61. "Council" has the following meaning:

(1) For purposes of IC 14-13-1-22, the meaning set forth in IC 14-13-1-22.

(2) For purposes of IC 14-13-1-23, the meaning set forth in IC 14-13-1-23.

(3) For purposes of IC 14-13-1-24, the meaning set forth in IC 14-13-1-24.

(4) For purposes of IC 14-13-1-25, the meaning set forth in IC 14-13-1-25.

~~(5) For purposes of IC 14-21-1, the meaning set forth in IC 14-21-1-5.~~

SECTION 21. IC 14-8-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 67. (a) "Department", **except as provided in subsection (b)**, refers to the department of natural resources.

**(b) "Department", for purposes of IC 14-20, refers to the department of Indiana heritage established by IC 4-35-2-1.**

SECTION 22. IC 14-8-2-77, AS AMENDED BY P.L.145-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 77. "Division" has the following meaning:

(1) For purposes of IC 14-9-8, the meaning set forth in IC 14-9-8-2.

(2) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-2.

~~(3) For purposes of IC 14-21-1, the meaning set forth in IC 14-21-1-6.~~

~~(4)~~ (3) For purposes of IC 14-22, the division of fish and wildlife.

~~(5)~~ (4) For purposes of IC 14-24, the division of entomology and plant pathology.

~~(6)~~ (5) For purposes of IC 14-25.5, the division of water.

~~(7)~~ (6) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-4.



~~(8)~~ (7) For purposes of IC 14-37, the division of oil and gas.

SECTION 23. IC 14-8-2-124 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 124. "Historic property", for purposes of IC 14-20-1, ~~and IC 14-21-1~~, means:

(1) historic site;

(2) historic structure; or

(3) other personal or real property located on or in a historic site or historic structure.

SECTION 24. IC 14-8-2-125 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 125. "Historic site", for purposes of IC 14-20-1, ~~and IC 14-21-1~~, means a site that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the site.

SECTION 25. IC 14-8-2-126 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 126. "Historic structure", for purposes of IC 14-20-1, ~~and IC 14-21-1~~, means a structure that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the structure.

SECTION 26. IC 14-8-2-202, AS AMENDED BY P.L.155-2002, SECTION 3 AND P.L.158-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 202.

(a) "Person" means, except as provided in subsections (b) through (j), an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, or a corporation.

(b) "Person", for purposes of IC 14-12-2, has the meaning set forth in IC 14-12-2-3.

(c) "Person", for purposes of IC 14-16, IC 14-22-28, IC 14-24, IC 14-26-2, IC 14-28-1, IC 14-28-3, IC 14-29-6, and IC 14-38-2, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, other legal entity, the state, or an agency, a political subdivision, or another instrumentality of the state.

(d) "Person", for purposes of IC 14-12-1, IC 14-12-2, IC 14-20-1, ~~IC 14-21~~, IC 14-25 through IC 14-29, except as otherwise provided in this section, IC 14-33, IC 14-34, and IC 14-37, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, or a governmental entity.

(e) "Person", for purposes of IC 14-22-31.5, has the meaning set

C  
o  
p  
y



1 forth in IC 14-22-31.5-2.

2 (f) "Person", for purposes of IC 14-25-3, has the meaning set forth  
3 in IC 14-25-3-1.

4 (g) "Person", for the purposes of IC 14-25-7, has the meaning set  
5 forth in IC 14-25-7-5.

6 (h) "Person", for purposes of IC 14-34, means an individual, a  
7 partnership, a limited liability company, an association, a society, a  
8 joint stock company, a firm, a company, a corporation, or other  
9 business organization.

10 (i) "Person", for purposes of IC 14-38-1, has the meaning set forth  
11 in IC 14-38-1-2.

12 (j) "Person", for purposes of IC 14-24-12, has the meaning set forth  
13 in IC 14-24-12-4.

14 SECTION 27. IC 14-8-2-206, AS AMENDED BY P.L.35-2001,  
15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JANUARY 1, 2004]: Sec. 206. "Plan" has the following meaning:

17 ~~(1) For purposes of IC 14-21-1, the meaning set forth in~~  
18 ~~IC 14-21-1-8.~~

19 ~~(2) (1)~~ For purposes of IC 14-30-2, the meaning set forth in  
20 IC 14-30-2-5.

21 ~~(3) (2)~~ For purposes of IC 14-30-4, the meaning set forth in  
22 IC 14-30-4-4.

23 SECTION 28. IC 14-8-2-258 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 258. "Site", for  
25 purposes of IC 14-20-1, ~~and IC 14-21~~, includes the following:

26 (1) An aboriginal mound, a fort, an earthwork, a village location,  
27 a burial ground, a ruin, a mine, a cave, a battleground, a  
28 shipwreck, or other similar location on land or under water.

29 (2) A location that contains or did contain a structure.

30 SECTION 29. IC 14-9-4-1 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. The following  
32 divisions are established within the department:

33 (1) Accounting.

34 (2) Administrative support services.

35 (3) Budget.

36 (4) Engineering.

37 (5) Entomology and plant pathology.

38 (6) Fish and wildlife.

39 (7) Forestry.

40 ~~(8) Historic preservation and archeology.~~

41 ~~(9) (8)~~ Human resources.

42 ~~(10) (9)~~ Internal audit.



C  
o  
p  
y

- (11) Land acquisition.
- (12) Law enforcement.
- (13) Management information systems.
- (14) Nature preserves.
- (15) Oil and gas.
- (16) Outdoor recreation.
- (17) Public information and education.
- (18) Reclamation.
- (19) Reservoir management.
- (20) Safety and training.
- (21) Soil conservation.
- (22) State museums and historic sites.
- (23) State parks.
- (24) Water.

SECTION 30. IC 14-10-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. The commission may do the following:

- (1) Take the action that is necessary to enable the state to participate in the programs set forth in 16 U.S.C. 470 et seq.
- (2) Promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Indiana history, architecture, archeology, and culture and expend money for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the commission, that comply with the standards and regulations promulgated by the United States Secretary of the Interior for the preservation, acquisition, and development of the properties.
- (3) Establish in accordance with criteria established by the United States Secretary of the Interior a program of matching grants-in-aid to public agencies for projects having as their purpose the preservation for public benefit of properties that are significant in American or Indiana history, architecture, archeology, and culture.
- (4) accept grants from public and private sources, including those provided under 16 U.S.C. 470 et seq.

SECTION 31. IC 14-10-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. (a) The department may adopt emergency rules under IC 4-22-2-37.1 to carry out the duties of the department under the following:

- (1) IC 14-9.
- (2) This article.



- 1 (3) IC 14-11.
- 2 (4) IC 14-12-2.
- 3 (5) IC 14-14.
- 4 (6) IC 14-17-3.
- 5 (7) IC 14-18, except IC 14-18-6 and IC 14-18-8.
- 6 (8) IC 14-19-1, IC 14-19-4, and IC 14-19-5.
- 7 ~~(9) IC 14-20-1.~~
- 8 ~~(10) IC 14-21.~~
- 9 ~~(11)~~ (9) IC 14-22-3, IC 14-22-4, and IC 14-22-5.
- 10 ~~(12)~~ (10) IC 14-23-1.
- 11 ~~(13)~~ (11) IC 14-25, except IC 14-25-8-3, IC 14-25-11, and
- 12 IC 14-25-13.
- 13 ~~(14)~~ (12) IC 14-26.
- 14 ~~(15)~~ (13) IC 14-27.
- 15 ~~(16)~~ (14) IC 14-28.
- 16 ~~(17)~~ (15) IC 14-29.
- 17 ~~(18)~~ (16) IC 14-35-1, IC 14-35-2, and IC 14-35-3.

(b) A rule adopted under subsection (a) expires not later than one (1) year after the rule is accepted for filing by the secretary of state.

SECTION 32. IC 14-10-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. This chapter applies to the property managers of **the following**:

(1) Each of the following divisions of the department:

- ~~(1)~~ (A) State parks.
- ~~(2)~~ (B) Forestry.
- ~~(3)~~ (C) Fish and wildlife.
- ~~(4)~~ (D) Reservoir management.

~~(5) state museums and historic sites~~ (2) **The history division of the department of Indiana heritage.**

SECTION 33. IC 14-11-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. (a) As used in this section, "license" means a license, a franchise, a permit, a certification, an approval, a registration, a charter, or a similar form of authorization that may be issued to a person by:

- (1) the department;
- (2) the commission; or
- (3) the director;

under Indiana law. ~~The term does not include a license issued by the historic preservation review board established by IC 14-21-1-20.~~

(b) Notwithstanding any other law, the director shall issue all licenses.

(c) A designee of the director may issue licenses. A designee of the



1 director must be a full-time employee of the department.

2 SECTION 34. IC 14-12-2-14, AS AMENDED BY P.L.170-2002,  
3 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JANUARY 1, 2004]: Sec. 14. (a) The Indiana heritage trust project  
5 committee is established.

6 (b) The project committee consists of the following sixteen (16)  
7 members:

- 8 (1) The director of the division of fish and wildlife.
- 9 (2) The director of the division of forestry.
- 10 (3) The director of the division of nature preserves.
- 11 (4) The director of the division of state parks.
- 12 (5) The director of the division of outdoor recreation.
- 13 (6) The director of the **history** division of ~~state museums and~~  
14 ~~historic sites~~ **the department of Indiana heritage.**
- 15 (7) Ten (10) individuals appointed by the governor. The governor  
16 shall appoint individuals so that all the following are satisfied:
  - 17 (A) The individuals must be residents of Indiana.
  - 18 (B) The individuals must have a demonstrated interest or  
19 experience in:
    - 20 (i) conservation of natural resources; or
    - 21 (ii) management of public property.
  - 22 (C) Each Indiana congressional district must be represented by  
23 at least one (1) individual who is a resident of that  
24 congressional district.
  - 25 (D) The individuals must represent the following:
    - 26 (i) The environmentalist community.
    - 27 (ii) The academic community.
    - 28 (iii) Organized hunting and fishing groups.
    - 29 (iv) The forest products community.
    - 30 (v) The parks and recreation community.

31 SECTION 35. IC 14-20-1-2 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. As used in this  
33 chapter, "division" refers to the **Indiana state museum** division of  
34 ~~state museums and historic sites~~ **the department of Indiana heritage.**

35 SECTION 36. IC 14-20-1-6 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 6. As used in this  
37 chapter, "trustees" refers to the board of trustees for the **Indiana state**  
38 **museum** division of ~~state museums and historic sites~~ established by  
39 this chapter.

40 SECTION 37. IC 14-20-1-7 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 7. The division of  
42 ~~state museums and historic sites~~ shall administer and develop the





programs and policies established by this chapter.

SECTION 38. IC 14-20-1-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 7.5. (a) The commissioner shall appoint a director as the executive head of the division.**

**(b) The director must have:**

**(1) a graduate degree in museum studies, history, historic preservation, or a closely related discipline; and**

**(2) at least five (5) years professional experience in managing a museum.**

**(c) The commissioner may remove the director at any time.**

SECTION 39. IC 14-20-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 10. The ~~section of museums division~~ shall do the following:

(1) Collect, preserve, and interpret artifacts and materials reflecting the cultural and natural history of Indiana.

(2) Prepare and maintain ~~a statewide an~~ inventory of these artifacts and materials **that are maintained at the Indiana state museum.**

(3) Assist other museums within Indiana to meet the criteria of museum accreditation.

SECTION 40. IC 14-20-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 15. The ~~director may, with the approval of the~~ commission **may** adopt rules under IC 4-22-2 to administer this chapter.

SECTION 41. IC 14-20-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 16. (a) The board of trustees for the **Indiana state museum** division ~~of state museums and historic sites~~ is established.

(b) The trustees consist of ~~thirteen (13)~~ **eleven (11)** members as follows:

(1) The ~~director~~ **commissioner** of the department, who shall serve as chairman.

(2) ~~Twelve (12)~~ **Ten (10)** members appointed by the governor as follows:

(A) One (1) member of the Indiana State Museum Society nominated by the Society.

(B) One (1) member of the Indiana State Museum Volunteers nominated by the volunteers.

~~(C) Two (2) members must be recognized supporters of historic sites.~~

~~(D)~~ (C) Not more than seven (7) members may be members of

C  
o  
p  
y



the same political party.

~~(E)~~ **(D)** Not more than two (2) members may be from the same county.

~~(F)~~ **(E)** Each congressional district in Indiana must be represented by at least one (1) member.

(c) The terms of the appointed members shall be staggered.

SECTION 42. IC 14-20-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 21. ~~Seven (7)~~ **Six (6)** members of the trustees constitute a quorum.

SECTION 43. IC 14-20-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 22. The trustees shall do the following:

~~(1) Nominate, when the position of division director is vacant, a person to be appointed by the director to that position. If the director rejects a nominee's appointment, the trustees shall nominate another person.~~

~~(2) Recommend, when appropriate, the dismissal of a division director.~~

~~(3)~~ **(1)** Make recommendations concerning the salary ranges of the administrative, professional, and technical staff of the division.

~~(4)~~ **(2)** Review the budget needs and requests of the division and make recommendations concerning the needs and requests to the governor through the ~~director~~ **commissioner**.

~~(5)~~ **(3)** Recommend that the department accept or reject, hold, or dispose of grants of **personal** property to be administered by the division for the purpose of preservation, research, or interpretation of significant areas, events, or grants to citizens of Indiana for the purpose of preserving, studying, and interpreting archeological and natural phenomena, cultural trends, and accomplishments.

~~(6)~~ **(4)** Review, guide, and assist in the development of statewide outreach programs.

~~(7)~~ **(5)** Review, guide, and assist in the development of professionalism of the staff and operations.

~~(8)~~ **(6)** Review, recommend, and devise methods to enable the division to do the following:

~~(1)~~ **(A)** Increase the division's physical plant.

~~(2)~~ **(B)** Expand the educational areas.

~~(3)~~ **(C)** Meet storage needs.

~~(9)~~ **(7)** Develop a plan of growth to meet physical, program, and financial needs for both the immediate and long range future,

C  
o  
p  
y



monitor the plan at regular intervals, and ensure that the institution stays within the developed plan.

~~(10)~~ **(8)** Recommend policies, procedures, and practices that the commission, the ~~director~~, **commissioner**, and the ~~secretary~~ **director of the division** shall consider.

~~(11)~~ **(9)** Give advice or make recommendations to the governor and the general assembly when requested or on the initiative of the trustees.

~~(12)~~ **(10)** Review the conduct of the work of the division. To implement this duty, the trustees have access at any reasonable time to copies of all records pertaining to the work of the division.

~~(13)~~ **(11)** Adopt bylaws consistent with this chapter for the division's internal control and management and file a copy of the bylaws with the ~~director~~, **commissioner**.

~~(14)~~ **(12)** Hold meetings at the times and places in Indiana that are prescribed by the bylaws, but at least quarterly.

~~(15)~~ **(13)** Keep minutes of the transactions of each regular and special meeting and file the minutes with the ~~director~~, **commissioner**. The minutes are public records.

~~(16)~~ **(14)** Promote the welfare of the division.

~~(17)~~ **(15)** Make recommendations concerning the administration of the fund established by section 24 of this chapter.

SECTION 44. IC 14-20-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 23. ~~(a) The commission may, on recommendation of the trustees, accept or refuse to accept an offered gift of historic property that would be administered by the department.~~

~~(b) The commission may, on recommendation of the trustees, sell, lease, or exchange historic property administered by the department under IC 4-20.5-7 or IC 5-22-22.~~

~~(c)~~ **(a)** The commission may, on recommendation of the trustees and in accordance with rules adopted by the commission under IC 4-22-2, sell, donate, or exchange artifacts in the museum's collection to or with other public or nonprofit museums or historical societies. However, the commission may donate an artifact in the museum's collection to a public or nonprofit museum or historical society under this subsection only if the museum or historical society is located in Indiana.

~~(d)~~ **(b)** The commission may, on recommendation of the trustees, adopt rules under IC 4-22-2 to establish a procedure for evaluating the merits of proposals to:

- (1) accept gifts of;
- (2) sell; or



C  
o  
p  
y

(3) exchange;  
artifacts or historic property.

SECTION 45. IC 14-20-4-10 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 10. The  
commission shall do the following:

(1) Recommend legislation to do the following:

(A) Protect the area from ~~the~~ environmental degradation.

(B) Assure development of the historic, scenic, aesthetically  
pleasing, cultural, educational, and recreational nature of the  
community.

(2) Conduct a survey of New Harmony memorabilia that is in  
existence and establish a plan for restoring the memorabilia to the  
community.

(3) Conduct other activities that are necessary for promotion and  
enhancement of the area of New Harmony.

(4) Cooperate with the department, **the department of natural  
resources**, and **the** Indiana department of transportation on  
recommending access and egress from New Harmony.

SECTION 46. IC 14-20-6-3 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3. The real  
property shall be administered, maintained, managed, and controlled  
by the department in the same manner as the state parks **are managed  
and controlled by the department of natural resources** and shall be  
known as The James F.D. Lanier Home.

SECTION 47. IC 14-20-12-3 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3. Thousands of  
Hoosiers all over the nation have contributed toward the moving and  
restoration of this historic house and because the house has already  
proven to be an outstanding tourist attraction and in keeping with our  
great American heritage, it is the intent of this chapter that the  
department of commerce, the department **of Indiana heritage, the  
department of natural resources**, and other appropriate state boards  
and agencies give widespread publicity to this memorial by brochure,  
pamphlet, or other means.

SECTION 48. IC 14-29-1-8 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. (a) A person,  
other than a public or municipal water utility, may not:

(1) place, fill, or erect a permanent structure in;

(2) remove water from; or

(3) remove material from;

a navigable waterway without a permit from the department.

(b) An application for a permit under this section must be made in

C  
O  
P  
Y



1 a manner prescribed by rule.

2 (c) The department shall issue a permit if the issuance of the permit  
3 will not do any of the following:

- 4 (1) Unreasonably impair the navigability of the waterway.  
5 (2) Cause significant harm to the environment.  
6 (3) Pose an unreasonable hazard to life or property.

7 (d) A separate permit is not required under this section for an  
8 activity permitted under any of the following:

- 9 ~~(1) IC 14-21-1.~~  
10 ~~(2) (1) IC 14-28-1.~~  
11 ~~(3) (2) IC 14-29-3.~~  
12 ~~(4) (3) IC 14-29-4.~~  
13 ~~(5) (4) IC 14-34.~~  
14 ~~(6) (5) IC 14-37.~~

15 However, a permit issued under a statute specified in this subsection  
16 must also apply the requirements of this section with respect to an  
17 activity within a navigable waterway.

18 (e) A separate permit is not required under this section for an  
19 activity for which a permit has been issued under any of the following:

- 20 (1) 16 U.S.C. 1451 et seq. (the federal Coastal Zone Management  
21 Act).  
22 (2) 33 U.S.C. 1344 (the federal Clean Water Act).  
23 (3) 42 U.S.C. 9601 et seq. (the federal Comprehensive  
24 Environmental Response, Compensation, and Liability Act).

25 (f) The department shall adopt rules under IC 4-22-2 to implement  
26 this section.

27 (g) A person who violates this section commits a Class B infraction.

28 SECTION 49. IC 14-34-4-10 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 10. (a) The  
30 director may not approve a permit application unless, in addition to the  
31 findings required by section 7 of this chapter, the director states in  
32 writing that the director has ~~considered~~ **consulted with the**  
33 **commissioner of the department of Indiana heritage concerning** the  
34 effects of the proposed mining operation on a place listed on or eligible  
35 for listing on the National Register of Historic Places or the Indiana  
36 state register of historic sites and structures.

37 (b) If the director considers it appropriate in accordance with rules  
38 adopted by the commission under this section, the director may impose  
39 conditions on a permit for the protection of properties or sites listed on  
40 or eligible for listing on the National Register of Historic Places or the  
41 Indiana state register of historic sites and structures requiring that:

- 42 (1) mining operations not occur in the areas occupied by the



properties or sites; or

(2) measures be implemented to mitigate the effects of the operation upon those properties or sites before mining.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section consistent with the following general principles:

(1) The commission's rules may not prohibit the use of information from any source and shall recognize the responsibilities of the state historic preservation officer under ~~IC 14-21-1-12~~ **IC 4-35-5-11** and ~~IC 14-21-1-15~~ **IC 4-35-5-15**.

(2) The commission's rules must provide for participation by professional and amateur archeologists, anthropologists, historians, or related experts in any:

(A) field investigations;

(B) studies; or

(C) records searches;

required by the director under this section.

(3) The commission's rules must strive to ensure that field investigations and studies are required only where a substantial likelihood exists that important and significant archeological or historic sites are present.

(4) In considering the effect of proposed surface coal mining and reclamation operations on a property or site eligible for listing on the National Register of Historic Places, the director shall consider the following:

(A) Based on information available from the ~~division of~~ historic preservation and archeology **division of the department of Indiana heritage**, the relative importance of the property or site compared to other properties or sites in Indiana listed on or eligible for listing on the National Register of Historic Places.

(B) The cost of an investigation of the permit area or site as estimated by the applicant. A decision that an investigation is not required may not be based on cost alone.

(5) This section does not authorize rules that impair the ownership of artifacts or other material found on private land.

(d) The director may do the following:

(1) Investigate the possibility of obtaining available federal or private:

(A) grants;

(B) subsidies; or

(C) aid;

to defer the cost to private individuals of measures required by the

C  
O  
P  
Y



1 director under this section.

2 (2) Apply for any:

3 (A) grants;

4 (B) aid; or

5 (C) subsidies;

6 that the director determines are available.

7 (e) In making the finding required by this section, the director shall  
8 take into account the general principles set forth in subsection (c).

9 SECTION 50. IC 20-11-3-5.5 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5.5. (a) As used  
11 in this section, "concerned state agency" includes the following state  
12 agencies that are inherently concerned with the mission of the coalition  
13 as stated in section 1 of this chapter:

14 (1) The ~~state~~ **Indiana** library and historical society ~~department~~.

15 (2) The department of workforce development.

16 (3) The department of correction.

17 (4) The office of the secretary of family and social services.

18 (5) The department of commerce.

19 (6) The department of education.

20 **(7) The department of Indiana heritage.**

21 (b) The ~~commissioner~~, director, or ~~secretary~~ of a concerned state  
22 agency shall:

23 (1) appoint an ex officio member to serve on the coalition; and

24 (2) provide appropriate support to the coalition.

25 SECTION 51. IC 23-14-34-10 IS ADDED TO THE INDIANA  
26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
27 [EFFECTIVE JANUARY 1, 2004]: Sec. 10. (a) **This section may not**  
28 **be construed to authorize violation of the confidentiality of**  
29 **information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470hh.**

30 **(b) This section does not apply to the following:**

31 **(1) A public utility (as defined in IC 8-1-2-1(a)).**

32 **(2) A corporation organized under IC 8-1-13.**

33 **(3) A municipally owned utility (as defined in IC 8-1-2-1(h)).**

34 **(4) Property that has been subject to bonding or other**  
35 **financial assurances released by the appropriate**  
36 **governmental agency after compliance with applicable state**  
37 **laws.**

38 **(c) Before a person may record any interest in property on**  
39 **which a burial ground or cemetery is known to be located, the**  
40 **owner of the property must record the deed to the property in the**  
41 **recorder's office of the county where the property is located. The**  
42 **bottom portion of the deed must state in capital letters in bold type**

C  
o  
p  
y



that the deed pertains to property on which a burial ground or cemetery is known to be located.

(d) The county auditor shall send a copy of the deed to:

(1) the historic preservation and archeology division of the department of Indiana heritage; and

(2) the local cemetery board, or if no local cemetery board exists, to the county commissioners;

not later than thirty (30) days after the deed is recorded under subsection (c).

(e) The recording that this section requires is in addition to any other recording that may be required by this chapter.

(f) A person who violates subsection (c) commits a Class C infraction.

SECTION 52. IC 23-14-67-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3.5. (a) Before March 1 of each year, a county cemetery commission shall file an annual report with the ~~Indiana historical bureau established by IC 4-23-7-3~~ **historic preservation and archeology division of the department of Indiana heritage**.

(b) An annual report filed under this section must include information on the following:

(1) The budget of the county cemetery commission for the preceding calendar year.

(2) Expenditures made by the county cemetery commission during the preceding calendar year.

(3) Activities of the county cemetery commission during the preceding calendar year.

(4) Plans of the county cemetery commission for the calendar year during which the report is filed.

(c) The ~~Indiana historical bureau~~ **department of Indiana heritage** shall make reports filed under this section available for public inspection under IC 5-14-3.

SECTION 53. IC 23-14-77 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

#### **Chapter 77. Cemetery Preservation**

**Sec. 1. This chapter does not apply to the following:**

(1) A cemetery owner (as defined in IC 23-14-33-8) in the course of performing a legitimate function under this article in relation to the owner's cemetery (as defined in IC 23-14-33-7).

(2) The owner of a grave memorial who, for the purpose of





replacing a grave memorial with a different grave memorial, transfers ownership of the grave memorial to a cemetery, cemetery owner, or grave memorial provider.

Sec. 2. As used in this chapter, "grave memorial" refers to a gravestone, monument, grave marker, or any other type of similar item.

Sec. 3. (a) A person who may lawfully remove a grave memorial must file the following with the county recorder of the county where the grave memorial is located before removing the grave memorial:

(1) A precise description of all text appearing on the grave memorial including:

- (A) names;
- (B) dates;
- (C) references to other individuals; and
- (D) mementos.

(2) A photograph of the grave memorial.

(3) A written description and photograph of the location of the site from which the grave memorial is to be removed.

(b) A person who knowingly fails to comply with this section commits a Class C misdemeanor.

Sec. 4. (a) A county recorder may collect a filing fee under IC 36-2-7-10 for filings under section 3 of this chapter.

(b) A county recorder is:

- (1) not required to obtain special recording equipment for the purpose of recording the information listed in section 3 of this chapter; and
- (2) required to record only the information listed in section 3 of this chapter that the recorder's current recording equipment can accommodate.

(c) The state board of accounts shall prescribe a form for recording the information listed in section 3 of this chapter. The form shall be available to the public at each local health department office.

Sec. 5. (a) A person may not buy or sell any of the following that have been removed from a cemetery:

- (1) Grave memorial.
- (2) Grave artifact.
- (3) Grave ornamentation.
- (4) Cemetery enclosure.
- (5) Other commemorative item.

(b) A person who knowingly violates this section commits a

C  
o  
p  
y



**Class C misdemeanor.**

SECTION 54. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2004]: IC 4-13-12; IC 4-23-7-3; IC 4-23-7-3.2; IC 4-23-7.2; IC 4-23-8; IC 14-8-2-5; IC 14-8-2-16; IC 14-8-2-30; IC 14-8-2-31; IC 14-8-2-127; IC 14-8-2-236; IC 14-8-2-244; IC 14-8-2-266.8; IC 14-8-2-268; IC 14-8-2-268.5; IC 14-20-1-8; IC 14-20-1-9; IC 14-20-1-11; IC 14-20-1-12; IC 14-20-1-13; IC 14-20-1-14; IC 14-21.

SECTION 55. [EFFECTIVE JANUARY 1, 2004] (a) Notwithstanding IC 4-35-4-3 (a), as added by this act, the initial terms of office for the six (6) individuals appointed to the Indiana heritage commission by the governor under IC 4-35-4-1(10) are as follows:

(1) Two (2) members for terms of one (1) year each.

(2) Two (2) members for terms of two (2) years each.

(3) Two (2) members for terms of three (3) years each.

(b) The initial terms begin January 1, 2004.

(c) This SECTION expires July 1, 2007.

SECTION 56. [EFFECTIVE JANUARY 1, 2004] (a) The Indiana state museum division renamed by this act is a continuation of the section of museums of the division of state museums and historic sites of the department of natural resources.

(b) The rules adopted by the natural resources commission concerning the section of museums of the division of state museums and historic sites of the department of natural resources shall be treated, after December 31, 2003, as rules of the Indiana heritage commission.

(c) On January 1, 2004, all powers, duties, assets, appropriations, fund balances, and liabilities of the department of natural resources that are attributable to the section of museums of the division of state museums and historic sites are transferred to the Indiana state museum division of the department of Indiana heritage.

(d) After December 31, 2003, a reference to the department of natural resources in a statute or rule concerning the section of museums of the division of state museums and historic sites shall be treated as a reference to the department of Indiana heritage.

(e) After December 31, 2003, a reference to the director of the department of natural resources in a statute or rule concerning the section of museums of the division of state museums and historic sites shall be treated as a reference to the commissioner of the department of Indiana heritage.



C  
O  
P  
Y

1       SECTION 57. [EFFECTIVE JANUARY 1, 2004] (a) The public  
2 records division renamed by this act is a continuation of the  
3 commission on public records and the genealogy division  
4 established under IC 4-23-7.1 as a division of the Indiana state  
5 library.

6       (b) The rules adopted by the commission on public records shall  
7 be treated, after December 31, 2003, as rules of the public records  
8 division.

9       (c) On January 1, 2004:

10       (1) all powers, duties, assets, appropriations, fund balances,  
11 and liabilities of the commission on public records relating to  
12 a forms management program and the establishment of a  
13 distribution center for state government are transferred to the  
14 department of administration; and

15       (2) all other powers, duties, assets, appropriations, fund  
16 balances, and liabilities of the commission on public records  
17 are transferred to the public records division.

18       (d) After December 31, 2003, a reference to the commission on  
19 public records in a statute or rule shall be treated as a reference to  
20 the public records division.

21       (e) The rules adopted by the Indiana library and historical  
22 board concerning the genealogy division of the Indiana state  
23 library shall be treated, after December 31, 2003, as rules of the  
24 public records division.

25       (f) On January 1, 2004, all powers, duties, assets,  
26 appropriations, fund balances, and liabilities of the Indiana state  
27 library relating to the genealogy division of the Indiana state  
28 library are transferred to the public records division.

29       (g) After December 31, 2003, a reference to the genealogy  
30 division of the Indiana state library in a statute or rule shall be  
31 treated as a reference to the public records division.

32       SECTION 58. [EFFECTIVE JANUARY 1, 2004] (a) The Indiana  
33 library department renamed by this act is a continuation of the  
34 Indiana library and historical department, except to the extent that  
35 any powers, duties, assets, appropriations, fund balances, or  
36 liabilities of the former Indiana library and historical department  
37 are transferred by this act to the history division or the public  
38 records division of the department of Indiana heritage.

39       (b) Except as otherwise provided by this act, the rules adopted  
40 by the Indiana library and historical department shall be treated,  
41 after December 31, 2003, as rules of the Indiana library  
42 department.



(c) Except as otherwise provided by this act, on January 1, 2004, all powers, duties, assets, appropriations, fund balances, and liabilities of the Indiana library and historical department are transferred to the Indiana library department.

(d) Except as otherwise provided by this act, after December 31, 2003, a reference to the Indiana library and historical department or a division of that department in a statute or rule shall be treated as a reference to the Indiana library department.

SECTION 59. [EFFECTIVE JANUARY 1, 2004] (a) A member of the historic preservation review board appointed under IC 14-21-1 (before its repeal by this act) shall continue to serve as a member of the historic preservation review board established by IC 4-35-5-35, as added by this act, until the end of the term for which the member was appointed.

(b) Notwithstanding IC 4-35-5-35(d), as added by this act, the commissioner may appoint one (1) or both of the members of the historic preservation review board under IC 4-35-5-35(b)(4), as added by this act, to an initial term of less than three (3) years.

(c) This SECTION expires July 1, 2007.

SECTION 60. [EFFECTIVE JANUARY 1, 2004] (a) Notwithstanding the repeal of IC 4-23-7.2-7 by this act, funds that are in the historical bureau publications and educational fund as of December 31, 2003, are transferred to the historical publications and educational account established by IC 4-35-6-19, as added by this act.

(b) Notwithstanding the repeal of IC 4-23-7.2-9 by this act, funds that are in the governor portraits fund as of December 31, 2003, are transferred to the governor portraits account established by IC 4-35-6-31, as added by this act.

(c) This SECTION expires July 1, 2004.

SECTION 61. [EFFECTIVE JANUARY 1, 2004] (a) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the department of Indiana heritage by this act.

(b) This SECTION expires June 30, 2004.

C  
o  
p  
y



## COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 490, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 82 with "[EFFECTIVE JANUARY 1, 2004]".

Page 4, delete lines 4 through 5.

Page 4, line 6, delete "(5)" and insert "(4)".

Page 4, line 7, delete "(6)" and insert "(5)".

Page 4, line 9, delete "(7)" and insert "(6)".

Page 4, delete lines 24 through 34, begin a new paragraph and insert:

**"Sec. 5. (a) The department of Indiana heritage fund is established as a dedicated fund to provide money for the department and its divisions to carry out their statutory duties. The fund shall be administered by the department.**

**(b) The fund consists of the following:**

**(1) Appropriations to the department and its divisions.**

**(2) Assets transferred to the department or a division of the department on July 1, 2003, under a statute providing for the transfer of all or part of the powers and duties of another agency to the department or a division of the department.**

**(3) The proceeds from the sale of items by a division of the department as directed by law or by the director of the division.**

**(4) Gifts of money or the proceeds from the sale of gifts donated to the department or a division of the department.**

**(5) Investment earnings from any part of the fund.**

**(c) The fund includes the following accounts, as established by the indicated statutes:**

**(1) The historic preservation and archeology division account established by IC 4-35-5-18.**

**(2) The historic sites account established by IC 4-35-6-13.**

**(3) The historical publications and educational account established by IC 4-35-6-18.**

**(4) The governor portraits account established by IC 4-35-6-31.**

**Subject to the approval of the budget agency, the department may establish additional accounts or combine existing accounts as necessary to carry out the duties of the department."**

Page 5, delete line 8.

SB 490—LS 7630/DI 77+



C  
O  
P  
Y

Page 5, line 9, delete "(D) History, archives management," and insert **"(C) Archives management"**.

Page 5, delete line 15.

Page 5, line 16, delete "(D)" and insert **"(C)"**.

Page 5, line 19, delete "Indiana department of administration" and insert **"budget agency"**.

Page 5, line 28, after "Sec. 5." insert **"(a)"**.

Page 5, between lines 29 and 30, begin a new paragraph and insert:

**"(b) Subject to the approval of the governor, the commissioner may enter into contracts with the Indiana historical society under which the society agrees to provide the department with services or access to facilities, or both, in order to carry out the purposes of this article."**

Page 5, line 41, after "The" insert **"commissioner, with the approval of the"**.

Page 5, line 41, after "agency" insert ",".

Page 6, between lines 24 and 25, begin a new line block indented and insert:

**"(9) The director of the state library."**

Page 6, line 25, delete "(9)" and insert **"(10)"**.

Page 6, line 25, delete "four (4)" and insert **"three (3)"**.

Page 6, delete lines 31 through 32.

Page 6, line 33, delete "(D)" and insert **"(C)"**.

Page 6, line 35, delete "(10)" and insert **"(11)"**.

Page 11, line 39, after "division" insert **"account is established within the department of Indiana heritage fund."**

Page 11, delete line 40.

Page 11, line 41, delete "division."

Page 11, line 41, delete "fund" and insert **"account"**.

Page 12, line 1, delete "fund" and insert **"account"**.

Page 12, line 5, delete "fund." and insert **"account."**

Page 12, line 6, delete "fund." and insert **"account."**

Page 12, line 7, delete "fund" and insert **"account"**.

Page 12, line 8, delete "(a)." and insert **"(a) but is subject to allotment by the budget agency."**

Page 12, line 9, delete "fund" and insert **"account"**.

Page 12, line 9, delete "the state".

Page 12, line 10, delete "general" and insert **"any other account within the department of Indiana heritage"**.

Page 12, line 10, delete "However, if the fund".

Page 12, delete line 11.

Page 12, line 26, delete "June 30," and insert **"December 31,"**.

C  
o  
p  
y



Page 12, line 28, delete "July 1, 2003," and insert "**January 1, 2004,**".

Page 12, line 28, after "assets," insert "**appropriations, fund balances,**".

Page 12, line 33, delete "July 1, 2003," and insert "**January 1, 2004,**".

Page 12, line 33, after "assets," insert "**appropriations, fund balances,**".

Page 12, line 37, delete "July 1, 2003," and insert "**December 31, 2003,**".

Page 21, line 6, delete "2003." and insert "**2004.**".

Page 21, line 36, delete "2003," and insert "**2004,**".

Page 21, line 38, delete "2003." and insert "**2004.**".

Page 22, line 17, delete "July 1, 2003," and insert "**December 31, 2003,**".

Page 22, line 20, delete "July 1, 2003," and insert "**December 31, 2003,**".

Page 22, line 26, delete "June 30," and insert "**December 31,**".

Page 22, line 30, delete "June 30," and insert "**December 31,**".

Page 26, line 16, delete "fund" and insert "**account**".

Page 26, line 16, delete "as a dedicated" and insert "**within the department of Indiana heritage fund.**".

Page 26, line 17, delete "fund to be administered by the division."

Page 26, line 17, after "in the" delete "fund" and insert "**account**".

Page 26, line 20, delete "fund" and insert "**account**".

Page 26, line 24, delete "fund." and insert "**account.**".

Page 26, line 25, delete "fund." and insert "**account.**".

Page 26, line 26, delete "fund" and insert "**account**".

Page 26, line 27, delete "(a)." and insert "**(a) but is subject to allotment by the budget agency.**".

Page 26, line 28, delete "fund" and insert "**account**".

Page 26, line 28, delete "the state".

Page 26, line 29, delete "general" and insert "**any other account within the department of Indiana heritage**".

Page 26, line 29, delete "However, if the fund".

Page 26, delete line 30.

Page 26, line 42, after "department;" delete "and".

Page 27, line 3, delete "." and insert "**; and**

**(3) the Indiana division established under IC 4-23-7.1 as a division of the Indiana state library.**".

Page 27, line 5, delete "(before it was abolished under IC 4-23-7-1.5)" and insert "**before January 1, 2004,**".



C  
o  
p  
y

Page 27, line 6, after "repeal)" insert "**or the Indiana division of the Indiana state library**".

Page 27, line 9, delete "bureau;" and insert "**bureau or the Indiana division of the Indiana state library;**".

Page 27, line 10, delete "July 1, 2003;" and insert "**January 1, 2004;**".

Page 27, line 11, delete "June 30," and insert "**December 31,**".

Page 27, line 16, delete "June 30," and insert "**December 31,**".

Page 27, line 18, delete "July 1, 2003," and insert "**January 1, 2004,**".

Page 27, line 18, after "assets," insert "**appropriations, fund balances,**".

Page 27, line 20, delete "and".

Page 27, line 22, after "resources;" insert "**and**

**(3) the Indiana division of the Indiana state library;**".

Page 27, line 25, delete "July 1, 2003," and insert "**January 1, 2004,**".

Page 27, line 25, after "assets," insert "**appropriations, fund balances,**".

Page 27, line 29, delete "July 1, 2003," and insert "**January 1, 2004,**".

Page 27, line 29, after "assets," insert "**appropriations, fund balances,**".

Page 27, line 33, after "bureau" insert "**or the Indiana division of the Indiana state library**".

Page 27, line 35, delete "July 1," and insert "**December 31,**".

Page 28, line 6, after "bureau" insert "**or the Indiana division of the Indiana state library**".

Page 28, line 7, after "bureau" insert "**or the division**".

Page 28, line 10, after "bureau" insert "**or the Indiana division of the Indiana state library**".

Page 28, line 13, after "bureau" insert "**or the Indiana division of the Indiana state library**".

Page 28, line 30, delete "fund" and insert "**account**".

Page 28, line 31, delete "as a dedicated fund to be administered by the division." and insert "**within the department of Indiana heritage fund.**".

Page 28, line 32, delete "fund" and insert "**account**".

Page 28, line 39, delete "fund" and insert "**account**".

Page 28, line 40, delete "fund:" and insert "**account:**".

Page 29, line 5, delete "fund." and insert "**account.**".

Page 29, line 6, delete "fund." and insert "**account.**".



C  
o  
p  
y



Page 29, line 8, delete "fund" and insert "**account**".

Page 29, line 9, delete "section." and insert "**section but is subject to allotment by the budget agency.**".

Page 29, line 10, delete "fund" and insert "**account**".

Page 29, line 10, delete "the state".

Page 29, line 11, delete "general" and insert "**any other account within the department of Indiana heritage**".

Page 29, line 11, delete "However, if the fund".

Page 29, delete line 12.

Page 30, line 33, delete "fund" and insert "**account**".

Page 30, line 33, delete "as a".

Page 30, line 33, delete "established" and insert "**established.**".

Page 30, line 34, delete "dedicated fund to be administered by the division."

Page 30, line 35, delete "fund" and insert "**account**".

Page 30, line 38, delete "fund" and insert "**account**".

Page 30, line 39, delete "fund:" and insert "**account:**".

Page 31, line 1, delete "fund." and insert "**account.**".

Page 31, line 2, delete "fund." and insert "**account.**".

Page 31, line 3, delete "fund" and insert "**account**".

Page 31, line 4, delete "section." and insert "**section but is subject to allotment by the budget agency.**".

Page 31, line 5, delete "fund" and insert "**account**".

Page 31, line 5, delete "the state".

Page 31, line 6, delete "general" and insert "**any other account within the department of Indiana heritage**".

Page 31, line 6, delete "However, if the fund".

Page 31, delete line 7.

Page 31, line 16, delete "fund." and insert "**account.**".

Page 31, delete lines 21 through 42, begin a new paragraph and insert:

"SECTION 2. IC 4-23-7-1 IS AMENDED TO READ AS FOLLOWS[EFFECTIVE JANUARY 1, 2004]: Sec. 1. There is hereby created and established a department of the state government which shall be known as the Indiana library ~~and Historical~~ department.

SECTION 3. IC 4-23-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. The management and control of the Indiana library ~~and historical~~ department is hereby vested in a board which shall be known as the Indiana library ~~and historical~~ board, and which shall consist of five (5) members, who shall be appointed by the governor, as hereinafter provided. In the first instance, one (1) of such members shall be appointed for a term of one (1) year,



C  
o  
p  
y

one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and two (2) members for a term of four (4) years. Thereafter all members shall be appointed for terms of four (4) years. No person shall be appointed as a member of the Indiana library ~~and historical~~ board unless ~~he~~ **the person** is a citizen of high standing and probity and has a known and active interest in library or historical work. One (1) member of the library ~~and historical~~ board shall be appointed on recommendation of the state board of education, one (1) member shall be appointed on recommendation of the Indiana library, trustee association, one (1) member shall be appointed on recommendation of the Indiana library association, one (1) member shall be appointed on recommendation of the Indiana historical society, and one (1) member shall be selected and appointed by the governor. The members of the board shall serve without compensation, but shall be entitled to receive their actual expenses necessarily incurred in attending the meetings and transacting the business of the board, and in participating in such other activities as may be in the interest of the department. Any vacancy which may occur in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term, either on recommendation of the board, association or society hereinbefore authorized to make recommendations, or by selection by the governor, as hereinbefore provided. The board may prepare plans subject to the approval of the governor and advise with the proper officials in the construction of alterations and additions to the building and provide necessary equipment and furnishings within the appropriations of funds for these purposes. The board may receive and administer any state or federal aid which may become available for the improvement and development of library ~~and historical~~ services in Indiana.

SECTION 4. IC 4-23-7.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. As used in this chapter:

- (1) "Advisory council" refers to the Indiana state library advisory council established by section 39 of this chapter.
- (2) "Agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.
- (3) "Board" means the Indiana library ~~and historical~~ board established by IC 4-23-7-2.
- (4) "Department" means the Indiana library ~~and historical~~ department established by IC 4-23-7-1.



C  
o  
p  
y

(5) "Director" means director of the Indiana state library.

(6) ~~"Historical bureau" means the Indiana historical bureau established by IC 4-23-7-3.~~

~~(7)~~ (6) "Public library" has the meaning set forth in IC 20-14-1-2.

~~(8)~~ (7) "State library" means the Indiana state library established by IC 4-23-7-3.

~~(9)~~ (8) "Statewide library card program" refers to the program established by section 5.1 of this chapter.

SECTION 5. IC 4-23-7.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. The state library shall initiate or participate in plans or programs for ~~historical or~~ library development in Indiana that are considered appropriate by the Indiana library ~~and historical~~ board."

Delete pages 32 through 36.

Page 37, delete lines 1 through 30.

Page 39, line 2, delete "division" and insert "**department of administration**".

Page 41, line 36, strike "commission." and insert "**division.**".

Page 42, line 8, delete "division" and insert "**department of administration**".

Page 42, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 20. IC 5-15-5.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. The ~~commission~~ **division** shall operate a central micrographics laboratory. The ~~oversight committee~~ **Indiana heritage commission** in coordination with the supreme court shall promulgate regulations concerning quality standards for microfilming documents that shall allow documents meeting those standards to be admissible in court. Such microfilming standards shall be followed by all agencies of the administrative and executive branches of state government.

SECTION 21. IC 5-15-5.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 10. Each agency shall:

(1) Make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency to protect the legal and financial rights of the government and of persons directly affected by the agency's activities.

(2) Cooperate fully with the ~~commission~~ **division** in implementing the provisions of this chapter.

(3) Establish and maintain an active and continuing program for the economical and efficient management of information and

C  
O  
P  
Y



assist the ~~commission~~ **division** in the conduct of information management surveys.

(4) Implement information management procedures ~~and regulations in accordance with rules~~ issued by the **Indiana heritage commission**.

(5) Submit to the ~~oversight committee~~, **Indiana heritage commission** a recommended retention schedule for each form and record series in its custody. However, retention schedules for forms and record series common to more than one (1) agency may be established by the ~~oversight committee~~. **Indiana heritage commission**. Records may not be scheduled for retention any longer than is necessary to perform required functions. Records requiring retention for several years must be transferred to the records center.

(6) Establish necessary safeguards against the removal, alteration, or loss of records; safeguards shall include notification to all officials and employees of the agency that records in the custody of the agency may not be alienated or destroyed except in accordance with the provisions of this chapter.

(7) Designate an agency information coordinator, who shall assist the ~~commission~~ **department of administration** in the content requirements of the form design process and in the development of the agency's records retention schedules.

(8) Report to the ~~commission~~ **division** before December 31 of each year those records which have been created or discontinued in the past year.

SECTION 22. IC 5-15-5.1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 17. (a) A state, county, or other official may turn over to the ~~commission~~, **division**, in accordance with the rules of the **Indiana heritage commission** for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials not in current use in his office.

(b) Subject to subsection (c), the ~~commission~~ **division** may make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office for preservation in the state archives. County, city, and other officials shall permit such copies to be made of the books, records, documents, and papers in their respective offices.

(c) The ~~commission~~ **division** shall copy the official copy of the rules (including incorporated matters filed under IC 4-22-2-21) retained by

C  
O  
P  
Y



the secretary of state under IC 4-5-1-2. Any duplicate original copy possessed by another agency is not a critical record and may not be copied. If the secretary of state prepares micrographic copies of these documents under IC 4-5-1-2 and the copies are in a form that meets the specifications of the ~~commission~~, **division**, the ~~commission~~ **division** shall arrange with the secretary of state to obtain the number of copies needed by the ~~commission~~, **division**, rather than copying the documents as part of a separate program."

Page 43, between lines 2 and 3, begin a new paragraph and insert: "SECTION 24. IC 5-15-5.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 19. (a) It is the duty of the ~~oversight committee~~ **Indiana heritage commission** to:

- (1) function as the policy making body for the ~~commission~~, **division**; and
- (2) determine what records have no apparent official value but should be preserved for research or other purposes.

(b) The ~~oversight committee~~ **Indiana heritage commission** shall maintain a master list of all record series that are classified as confidential by statute or rule.

(c) The ~~oversight committee~~ **Indiana heritage commission** has final approval of all record retention schedules.

(d) The ~~oversight committee~~ **Indiana heritage commission** has final approval of a fee schedule established by the ~~commission~~ **division** under section ~~5(a)(16)~~ **5(b)(11)** of this chapter.

SECTION 25. IC 5-15-5.1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 20. (a) The ~~oversight committee~~ **Indiana heritage commission** shall:

- (1) establish standards for safeguarding personal information systems that shall be followed by agencies maintaining such systems;
- (2) approve the content of all forms that involve confidential records; and
- (3) require use of archival quality paper for records that the ~~commission~~ **division** determines should be preserved indefinitely.

(b) The ~~oversight committee~~ **Indiana heritage commission** may adopt rules under IC 4-22-2 necessary for the performance of its duties, consistent with this chapter and other applicable Indiana laws."

Page 55, line 32, after "state" insert "**Indiana**".

Page 55, line 32, reset in roman "library".

Page 55, line 32, delete "of" and insert ".".

Page 55, delete line 33.

Page 55, between lines 38 and 39, begin a new line block indented

C  
o  
p  
y



and insert:

**"(7) The department of Indiana heritage."**

Delete pages 56 through 59.

Page 60, delete lines 1 through 37.

Page 63, line 16, delete "IC 4-23-7-2.1;"

Page 63, line 17, delete "IC 4-23-7-5.3; IC 4-23-7.1-23;"

Page 63, line 21, delete "IC 14-21;" and insert "IC 14-21."

Page 63, delete line 22.

Page 63, line 30, delete "July 1, 2003." and insert **"January 1, 2004."**

Page 63, line 31, delete "2006." and insert **"2007."**

Page 63, line 39, delete "June 30," and insert **"December 31,"**

Page 63, line 41, delete "July 1, 2003," and insert **"January 1, 2004,"**

Page 63, line 41, after "assets," insert **"appropriations, fund balances,"**

Page 64, line 4, delete "June 30," and insert **"December 31,"**

Page 64, line 8, delete "June 30," and insert **"December 31,"**

Page 64, line 15, after "records" insert **"and the genealogy division established under IC 4-23-7.1 as a division of the Indiana state library"**

Page 64, line 17, delete "June 30," and insert **"December 31,"**

Page 64, line 19, delete "July 1, 2003:" and insert **"January 1, 2004:"**

Page 64, line 20, after "assets," insert **"appropriations, fund balances,"**

Page 64, line 25, after "assets," insert **"appropriations, fund balances,"**

Page 64, line 28, delete "June 30," and insert **"December 31,"**

Page 64, between lines 30 and 31, begin a new paragraph and insert:

**"(e) The rules adopted by the Indiana library and historical board concerning the genealogy division of the Indiana state library shall be treated, after December 31, 2003, as rules of the public records division.**

**(f) On January 1, 2004, all powers, duties, assets, appropriations, fund balances, and liabilities of the Indiana state library relating to the genealogy division of the Indiana state library are transferred to the public records division.**

**(g) After December 31, 2003, a reference to the genealogy division of the Indiana state library in a statute or rule shall be treated as a reference to the public records division.**

SECTION 70. [EFFECTIVE JANUARY 1, 2004] (a) The Indiana



C  
o  
p  
y

library department renamed by this act is a continuation of the Indiana library and historical department, except to the extent that any powers, duties, assets, appropriations, fund balances, or liabilities of the former Indiana library and historical department are transferred by this act to the history division or the public records division of the department of Indiana heritage.

(b) Except as otherwise provided by this act, the rules adopted by the Indiana library and historical department shall be treated, after December 31, 2003, as rules of the Indiana library department.

(c) Except as otherwise provided by this act, on January 1, 2004, all powers, duties, assets, appropriations, fund balances, and liabilities of the Indiana library and historical department are transferred to the Indiana library department.

(d) Except as otherwise provided by this act, after December 31, 2003, a reference to the Indiana library and historical department or a division of that department in a statute or rule shall be treated as a reference to the Indiana library department."

Page 64, line 41, delete "2006." and insert "2007".

Page 65, line 2, delete "June 30," and insert "December 31,".

Page 65, line 4, delete "fund" and insert "account".

Page 65, line 6, delete "June 30," and insert "December 31,".

Page 65, line 7, delete "fund" and insert "account".

and when so amended that said bill do pass.

(Reference is to SB 490 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 11, Nays 0.

C  
o  
p  
y

